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**THEMATIC REPORT
ON SOLVING THE LACK OF IDENTITY DOCUMENTS AND STATELESSNESS OF ROMA
based on the CAHROM Thematic visit to
Tirana, Albania, 14-16 November 2018**

endorsed by the CAHROM by written procedure on 11 December 2019

¹ The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

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I. INTRODUCTION

1.1 Context of the thematic report and visit at national and international levels

The problem of statelessness or being at risk of statelessness has again become a problem in Europe at the end of the 20th century and in the beginning of the 21st century. This is mainly due to two main historic events: the disintegration of the Federal Republic of Yugoslavia and Soviet Union in the 90's, both of which, as a result of creating new states, left tens of thousands of people without citizenship or at risk of statelessness. Although Roma are not the only group facing these challenges, they are without doubt disproportionately affected by it, as a heavily discriminated, generally marginalised, poorer, less- educated and vulnerable minority group.

According to the key recommendations by the United Nations High Commissioner for Refugees (UNHCR) and its [Global Action Plan to end Statelessness 2014-2024](#), states have eight key duties regarding the statelessness. They are 1) issuing nationality documentation, 2) resolving existing major situations of statelessness and 3) ensuring through birth registration that no child is born stateless. States should also 4) prevent all kinds of denial, loss and deprivation of nationality on discriminatory grounds, especially in 5) cases of State succession. Action Plan also urges states to 6) accede to the UN Statelessness Conventions and to 7) grant special protection status to stateless migrants and facilitate their naturalization processes. One of the state responsibilities is to 8) collect and analyse quantitative and qualitative data on stateless populations

Terminology and definitions of key principles used legislatively and when discussing the citizenship criteria

ius soli - citizenship acquired **due to birth on the territory** of the country (Americas; more affiliated to the “civic” dimension)

ius sanguinis - citizenship acquired **due to citizenship of at least one parent** (Europe; more affiliated to the “ethnic” dimension)

ius culturae - principle of the law according to which **minors can acquire the citizenship of the country in which they were born and live, provided they have attended schools or have completed equivalent training courses for a specified number of years** (a similar proposal to change the current law has recently been discussed in Italy)

Birth certificate – an official document recording a baby's birth and which includes such information as the full name of the baby, the time and place of birth, the names of the parents, the name of the midwife or doctor present and the name of the civil servant registering it.

Stateless person - as defined in article 1(1) of the 1954 [Convention relating to the Status of Stateless Persons](#), a stateless person is defined as someone who is “not considered as a national by any State under the operation of its law,” and is thus someone without any nationality or citizenship anywhere.

In addition to stateless persons who fall under the internationally recognized legal definition, there are also groups and individuals who are referred to as de facto stateless persons. ... While the term de facto stateless persons has been used in a variety of contexts, there is a growing consensus that at a minimum this concept includes persons who possess a nationality but are outside their country of nationality and unable or, for valid reasons, unwilling to avail themselves of the protection of that country... In this context, it is also important to note that de facto stateless persons face many of the same protection risks faced by stateless persons.²

¹ United Nations High Commissioner for Refugees (UNHCR) Global Action Plan to end Statelessness 2014 -2024, available at <https://www.unhcr.org/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html>

² Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en

However, the terms ‘*de facto*’ and ‘*de jure*’ stateless are not legally defined anywhere in international law and often cause confusion. Key stakeholders including UNHCR recommend avoiding use of these terms except in very specific circumstances (See more: UNHCR Handbook on Protection of Stateless Persons³)

The terms “nationality” and “citizenships” are not necessarily interchangeable.⁴ Most countries in the Western Balkans region do not have a procedure for identifying and determining statelessness and granting stateless people protection. This is the case for example in Serbia, North Macedonia, Ukraine as well as Albania.

According to the European Centre for Minority Issues (ECMI) the current analysis approaches the problem of registration of undocumented people from a meta-perspective. Overcoming the specific examples, it aims to find the patterns of the challenges in order to provide a structural approach for addressing the issues efficiently. Transfer of positive practices requires a thorough analysis of factors that are resulting in people lacking documents, of the existing mechanisms that could accommodate the identified relevant solutions and a clear division of tasks and responsibilities to implement them. The analysis has been based on documents and information provided to CAHROM by its member states.

The lack of identity documents is both a political and a social challenge. It makes people invisible to the systems and violates their fundamental human rights.

From a political/international law perspective, a person not considered a national by any State under the operation of its law is ‘stateless’ and deprived of their right to nationality.⁵ The legal definition of statelessness, as outlined by the 1954 UNHCR Convention,⁶ points out that stateless persons are “*individuals who are not considered citizens or nationals under the operation of the laws of any country*”. According to the estimates, there are about 10 million people in the world today who are without a nationality, without a fundamental tie to a country and hence without possibilities to enjoy basic rights.

Lack of documents is also a social challenge because the ‘invisible’ people often face discrimination, detention and lack of life opportunities due to impeded access to education, the labour market, social and

³ UNHCR Handbook on Protection of Stateless Persons <https://www.unhcr.org/uk/protection/statelessness/53b698ab9/handbook-protection-stateless-persons.html>.

⁴ “Although ‘nationality’ and ‘citizenship’ are often used synonymously in international law, they have different meanings in the Balkans where ethnic-national affiliations do not always correspond to one’s legal tie with the State. In Albania, *shtetas* and *shtetësi* (‘citizen’ and ‘citizenship’) are the legal terms describing the legal bond between the state (*shtet*) and an individual referring to this bond and the mutual rights and obligations it implies, without any reference to ethnicity. According to Article 1 (paragraph 1) of the Law “On Albanian Citizenship”, “Albanian citizenship is a stable legal relationship which is expressed in the interrelated rights and duties between the physical person and the Albanian state”. The term *shtetas* is sometimes used interchangeably with the term *qytetar* (citizen), where the latter has additional civic and political connotations. The latter (...) *qytetar* is usually used to describe all legal subjects of the political entity (state). In the legal terminology of Albania, *kombësia* (nationality) is used to designate the national belonging of a person, referring only to their ethno/linguistic affiliation and not to a legal tie. The term *komb* (nation) is used to describe a nation as a whole (in ethnic terms), regardless of the state of residence. There is also a distinction between *shtetas shqiptar* (Albanian citizen) and *shqiptar* (Albanian), the first referring to persons that have legal bonds with the Albanian state (regardless of their ethnic origin) and the second referring to a person of Albanian ethnic origin. More information is available at: EUDO Citizenship Observatory: <http://eudo-citizenship.eu/databases/citizenship> “Statelessness, Discrimination and Marginalisation of Roma in Albania, 2018, page 9, footnote 6.

⁵ Universal Declaration on Human Rights (1948, Article 15), available at <http://www.un.org/en/universal-declaration-human-rights/>; International Convention on the Elimination of All Forms of Racial Discrimination (1963), available at <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>; International Covenant on Civil and Political Rights (1966), available at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; United Nations Convention on the Rights of the Child (1989, Article 7), available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>; Council of Europe European Convention on Nationality, 1997 (CETS No.166), available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007f2c8>, European Convention on Human Rights (Article 8), ECHR has been interpreted to include respect for a nationality in the context of the denial of citizenship or uncertainty of recognition of citizenship – see http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁶ UNHCR 1954, Convention relating to the status of stateless persons, available https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

health services. But as UNHCR outlines, although statelessness, among all the other factors, can be a result of the lack of a birth certificate, “being undocumented is not the same as being stateless”.⁷

The intersection between the situations experienced by the undocumented and the stateless people is exactly in the social and economic rights and opportunities that they are deprived of due to not being registered with the state systems. These overlapping situations result in a conceptual and theoretical confusion of applying the international law concept of ‘statelessness’ to Roma people with no documents. This is problematic since although some Roma might be also suffering from lack of nationality, all of them are experiencing challenges with respect to social and economic opportunities. Solving the problems with lack of identity documents is therefore a fundamental step towards the integration of Roma individuals and communities that could bring in a significant change in their life opportunities.

Based on the above, the current research suggests that when discussing the cases of Roma falling out of the official state registries, the concept of ‘undocumented’ and ‘at risk of statelessness’ has a priority to ‘stateless’.

Special focus on the statelessness of the Roma

The general problem of data regarding the size of Roma communities in all countries additionally hinders adequate responses to the problem of Roma statelessness. Existing data concerning the number of Roma in the participating countries shows discrepancies between the official numbers based on censuses and the unofficial estimates of the NGOs and UNCHR data. The number of people in statelessness situation, according to the data of the United Nations High Commissioner for Refugees (UNHCR) is as follows:

Table 1. Number of persons under UNHCR’s statelessness mandate:⁸

	Albania	BiH	Italy	Montenegro	Serbia*	FYROM	Ukraine
2013	7,443	792	350	3,341	4,195	819	33,271
2016	4,921	49		3,237	2,373	600	35,363
2017	4,460	65	715	145	2,155	590	35,294

* Serbia (and Kosovo: S/RES/1244 (1999))

A significant part of these people is of Roma origin. What is even more alarming is the fact that many of the people at the risk of statelessness are children and statelessness of families often becomes perpetuated and inherited over generations.

According to several reports concerning the situation of the Roma in Western Balkans and especially according to the reports prepared within the project Roma Belong:⁹ [ROMA BELONG. Statelessness, Discrimination and Marginalisation of Roma in Albania](#)¹⁰ and [Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine](#)¹¹ Roma still appear to face particularly strong

⁷ UNHCR, What is Statelessness (info-brochure), available at <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-Statelessness-2pager-ENG.pdf>

⁸ <http://www.unhcr.org/protection/statelessness/546e01319/statistics-stateless-persons.html> and <http://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html> and see Annex Table 7 at: <http://www.unhcr.org/statistics/17-WRDtable-7.xls>

⁹ More about the project see: Chapter IV, Good practices of this report.

¹⁰ See <http://www.errc.org/reports-and-submissions/roma-belong--statelessness-discrimination-and-marginalisation-of-roma-in-albania>: The methodology of the report on Albania, as well as on western Balkans countries and Ukraine was based on “desk research including an extensive analysis of existing literature, stakeholder mapping, and qualitative semi-structured interviews with Roma who are stateless or at risk of statelessness and other key stakeholders, including international agencies, national human rights institutions, NGOs, Roma rights groups, government officials, media and academics”. And <https://www.statelessness.eu/resources/romabelong-statelessness-discrimination-and-marginalisation-roma-ukraine>

¹¹ See <http://www.errc.org/reports-and-submissions/roma-belong--discrimination-statelessness-and-marginalisation-of-roma-in-the-western-balkans-and-ukraine>.

challenges in relation to civil documentation, particularly concerning the registration of births and proving their permanent residence. The problems of acquiring or confirming residency can often be explained with the specific requirements of permanent residence permits that do not meet the realities of extreme poverty and life of the Roma communities. However, it is important to note, that during the recent years steady progress has been made by all the states of the Western Balkan region and this positive development shows also among many Roma populations.

Birth registration

Despite the fact, that every child has the right to immediate registration of birth and to acquiring a nationality and rights protected under the UN Convention on the Rights of the Child (Article 7), a significant number of the European Roma are still facing statelessness or are at the risk of becoming stateless. The main reasons for this are different barriers hindering full access to healthcare, lack of registration homebirths, dubious practice of giving birth in a hospital but under someone else's name and/or the undocumented status of the parents. Lack of birth registration and consequently lack of any personal and civil documents, hinders children's future access to basic public services, for example using health care services or accessing education. Sometimes the statelessness may, even in the case of proper school enrolment, in the end hinder children from obtaining the formal educational diplomas. Although the failure to register birth does not necessarily make the child stateless, it does increase the risk of statelessness, because it leaves them without proof of their place of birth and family links, which are key determinants of the child's nationality and future rights including right to property and the right to inherit property in a particular country. In some cases, when several years have passed since the child's birth, the parents may even need to obtain DNA analysis, in order to prove their family links and the child's nationality. For Roma this presents one more costly barrier to the proper identification of the children.

In most countries of the Western Balkans and Southern and Eastern Europe, almost all rights, apart from from primary education and emergency health care, are systematically denied from the undocumented people. In some cases, even the emergency health care and primary education may be subject to payments and therefore, in practice, only accessible to those who have a birth certificate. In addition to the above-mentioned serious consequences, the lack of ID documents affects all spheres of everyday life and contributes to the vicious circle of Roma exclusion. It often leads to exclusion from the labour market or public employment services, access to justice and property rights preventing the fulfilment of everyday basic needs such as acquiring bank accounts, telephone numbers and getting electricity contracts.

It is very important to understand that the legal provision of nationality is not about the status of the parents but rather the child. The status of the parents is only relevant inasmuch as it may determine whether the child may acquire another nationality or not.

Undocumented and/or stateless Roma children and their exposure to human trafficking

Ending statelessness of the undocumented Roma children is also one of the key issues in the process of fighting against their human trafficking. In its 2016 country [monitoring report on Albania](#), the Group of Experts on Action against Trafficking in Human Beings (GRETA) paid special attention to the need to *“strengthen the protection of children, particularly through the recording of all children in the civil status register and awareness-raising measures, particularly in the Roma and Egyptian communities”* (GRETA 2016, 58). The same recommendation applies also to Bosnia and Herzegovina, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Ukraine and is explicitly stated in the relevant GRETA reports (links to the relevant country reports are in Appendix 4).¹²

¹² See GRETA website: <https://www.coe.int/en/web/anti-human-trafficking/country-monitoring-work>.

According to the several expert assessments, for example in Bulgaria, Roma background child victims of human trafficking account for between 50 and 80% of all trafficked children.¹³ [Thematic Chapter of the 6th General Report on GRETA's Activities in 2016](#), focuses on child trafficking¹⁴ and addresses, inter alia, this issue. The report points out that the absence of any registration at birth affects mainly children from Roma communities, rendering such children vulnerable to trafficking. GRETA notes that measures to resolve these problems must be part and parcel of national social and health policies. For example, if there is no social service to support Roma parents in obtaining personal identity documents, they cannot register with a general practitioner (GP) and subsequently the GP cannot assist them in registering their newborn. The implementation of grassroots level projects aimed at the creation of innovative social services provides opportunities for the application of legal measures aimed at improving birth registration and for bridging the gap between the Roma and the state/municipal authorities responsible for the registration of all births and citizenship.

Although the lack of official and ethnically disaggregated data prevents a reliable assessment of the occurrence of human trafficking in Roma communities, there is some evidence that Roma, in particular Roma women and children, are highly vulnerable to trafficking due to multiple discrimination and different structural forms of ethnic and gender discrimination, poverty and social exclusion. They all result in low educational achievement, high levels of unemployment, domestic violence and difficult living conditions that either affect very negatively or even danger the lives and health of Roma women and children.

Gender dimension

Lack of understanding the gender dimension associated with the statelessness and the lack of IDs, has a disproportionate impact on Roma women and girls as they are much more vulnerable due to the common practice of changing their surname and/or renouncing their previous nationality upon marriage. Other significant barriers for acquiring proof of nationality for Roma women include: complicated procedures for acquiring proof of nationality, marginalisation, spatial segregation or isolation, lack of outreach campaigns among Roma on the nationality requirements and procedures, lack of trust between Roma communities and the authorities and existing penalty fees and costly administrative procedures in the case of difficulties with proving one's nationality.

1.1.1 CAHROM past activities addressing the problems of lack of IDs and statelessness of Roma

In addition to this thematic visit to Albania on solving the lack of identity documents and the statelessness of Roma, the CAHROM Committee has earlier conducted two other thematic visits on these topics¹⁵. Key findings of these two visits have been included in this report under each country profile.

¹³ Kamelia Dimitrova, Yva Alexandrova, *Child Trafficking Among Vulnerable Groups. Country Report Bulgaria*, Sofia, Bulgaria, 2015, available at http://childrentrafficking.eu/wp-content/uploads/2014/04/CONFRONT_Country-Report_Bulgaria.pdf

¹⁴ Group of Experts on Action against Trafficking in Human Beings (GRETA), Thematic Chapter of the 6th General Report on GRETA's Activities: trafficking in children available at <https://rm.coe.int/6gr-extract-web-en/16808b6552>.

¹⁵ The two thematic reports already endorsed by the Committee are accessible on CAHROM website under thematic reports, chapter "legal status/identity documents/statelessness": <https://www.coe.int/en/web/roma-and-travellers/thematic-reports#Legal>

Table 3. Countries which participated in CAHROM thematic visits devoted to the problem of lack of ID:

Countries which participated the CAHROM thematic visits on legal status, lack of ID and statelessness	<i>Solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents, Rome, Italy, 2014</i>	<i>Challenges and best practices in implementing Roma inclusion strategies (with a special focus on mechanisms for solving the lack of personal identification documents and improving access to social services, including health care), Kyiv and Odessa, Ukraine, 2017</i>	<i>Solving the lack of identity documents and statelessness of Roma, Tirana, Albania, 2018</i>
ALBANIA			✓
BOSNIA AND HERZEGOVINA	✓		✓
CROATIA	✓		
GREECE		✓	
ITALY	✓		✓
MONTENEGRO	✓		✓
POLAND		✓	
SERBIA	✓	✓	✓
REPUBLIC OF NORTH MACEDONIA"	✓	✓	✓
UKRAINE		✓	✓

1.1.2 Composition of the thematic group of experts

Experts who participated the thematic visit in Albania represented a wide range of institutions dealing with national minorities, Roma integration or education at different levels.

Expert from ALBANIA, requesting/hosting country

Ms Merita XHAFAJ CAHROM member, General Director, Ministry of Health and Social Welfare

Experts from BOSNIA AND HERZEGOVINA, ITALY, MONTENEGRO, SERBIA, "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" AND UKRAINE, partner countries

Ms Aleksandra JARIC CAHROM member, Ministry for Human Rights and Refugees, **BOSNIA AND HERZEGOVINA**

Mr Alessandro PISTECCHIA CAHROM substitute, *Università La Sapienza - Rome/on behalf of Ufficio Nazionale Antidiscriminazioni Razziali - UNAR., Dipartimento per le Pari Opportunità, Presidenza del Consiglio dei Ministri, ITALY*

Ms Tatjana ANĐELIĆ CAHROM chair, Head of Department for European Integration, Programming and Implementing of EU funds, Ministry for Human and Minority Rights, **MONTENEGRO**

Dr Dragoljub ACKOVIC **CAHROM member**, Deputy Director, Office for Human and Minority Rights, **SERBIA**

Ms Mabera KAMBERI CAHROM member, Head of Department for Co-ordination and Technical Assistant to the Minister, Ministry of Labour and Social Policy, **NORTH MACEDONIA**

Mr Serhiy PONOMARYOV International Renaissance Foundation, Roma Programme Manager, **UKRAINE**

Mr Serhiy DONSKY Head of the Administrative Department, the State Migration Service, **UKRAINE**

Mr Sergiy GUNKO Head of Communications and Electronic Services Department, the State Migration Service of Ukraine, **UKRAINE**

Ad hoc experts

Dr Zora POPOVA Senior Research Associate, European Centre for Minority Issues (ECMI), **GERMANY**

Ms Nina MURRAY Head of Policy and Research, European Network on Statelessness, **UNITED KINGDOM**

1.1.3 Situation in Albania – hosting country¹⁶

According to the European Union Statelessness Index the existing legal framework in Albania, and most of the other participating countries, does not meet the existing international standards concerning the legal definition of statelessness and Albania has no legal procedure for determining statelessness and protecting stateless persons. (More detailed information on the definition and existing legal frameworks to determine statelessness can be found from <https://index.statelessness.eu>)

The Article 3.2 of the Albanian law “On Foreigners” defines a stateless person as “*a person who is not a citizen of any state*”. This kind of definitions are common also in other member states. The problem of this definition falls short of the definition of a stateless person under international law as someone who is “*not considered as a national by any state under the operation of its law*”. The above mentioned failure to include the phrase “*under the operation of its law*” in the Albanian law is a significant gap in the definition. It means that those who under the letter of the law should have a nationality but have been denied their nationality due to non-implementation or discriminatory implementation of the law, may not be considered to be stateless in the country. In the absence of a procedure to identify and protect stateless persons, the impact of this gap may be less obvious in practice, but it is, nonetheless, a significant one, as it can result in stateless people not being identified and being denied protection. The gap in the definition identified above, together with the lack of statelessness determination procedure, prevents stateless persons from being recognised as such in the member states, and denies them the protection and rights this entails, such as the right to travel documents and legal residence.

The two political criteria that Albania is facing with ID registration and statelessness are:

- The obligation of the authorities to register the children. Cases where parents do not register newborns within the legal deadline. The amended law has foreseen these cases.
- The children of the diaspora have different problems. Collaboration between the Albanian Government and other countries will allow solutions to the problem to be identified.

When the issue of statelessness is discussed the following definitions must be considered:

A *stateless person* is someone who is not considered a national by any state under the operation of its law, as per Article 1(1) of the UN Convention of 1954 on the status of stateless persons. *Risk of statelessness* is used to describe a person or a group facing high chances of becoming stateless. It is important to differentiate people without ID and stateless persons.

Roma in Albania are disproportionately impacted by both the issue of lack of civil documents and statelessness. This is mostly due to their inability to prove nationality status or uneligibility to acquire Albanian nationality. The following citations from the 2018 report *ROMA BELONG. Statelessness, Discrimination and Marginalisation of Roma in Albania*¹⁷ describes well the situation in Albania:

Albanian nationality law embraces two concepts of acquisition of citizenship, *jus soli* [limited to children whose parents are lawful residents in Albania] and *jus sanguinis*; [...] [I]n each case, while acquisition should be automatic according to the law, in practice the acquisition of citizenship is granted pursuant to the registration of birth. [...] [p]roblems relating to the registration of children have contributed to the denial of citizenship [...] [so] children of parents who do not have residence permits, or who are themselves undocumented [apart from birth registration the registration of deaths, marriages, legal residency transfers, divorces, and child custody, etc.] are at heightened risk of statelessness.

¹⁶ Information in this chapter was extracted from the report: *ROMA BELONG. Statelessness, Discrimination and Marginalisation of Roma in Albania*, by the Institute of Statelessness and Inclusion, European Network on Statelessness and the European Roma Rights Centre, 2018, available at http://www.errc.org/uploads/upload_en/file/4993_file3_roma-belong-albania-english-language.pdf.

¹⁷ The methodology of the report on Albania, as well as on western Balkans countries and Ukraine was based on desk research including an extensive analysis of existing literature, stakeholder mapping, and qualitative semi-structured interviews with Roma who are stateless or at risk of statelessness and other key stakeholders, including international agencies, national human rights institutions, NGOs, Roma rights groups, government officials, media and academics.

The Albanian law no 10 129 “*On Civil Status*”, amended on 11 October 2018, provides that the General Directorate of Civil Status must maintain a distinct register for stateless (at risk of) statelessness individuals, recording their whereabouts in the Republic of Albania. Yet, the registration does not confer the legal status of stateless to those registered. Moreover, such individuals are included in the same register as those who have renounced Albanian nationality. This makes it impossible to distinguish between individuals who have renounced Albanian nationality to acquire another one and those who are stateless. Three instructions were amended in March 2019 aiming to improve the conditions for the registration of children to resolve the problematic situation in the field of civil registration. Current births and old births are treated through the instructions. This amendment has had a positive effect in decreasing the number of unregistered children.

The lack of data in this field is a significant obstacle to addressing the problem and to planning relevant state policy to combat this phenomenon. On the other hand, the lack of any documents makes people “invisible” to the system, but on the other hand, some people without any documents may deliberately avoid being “visible” to the state. In the Albanian context the problem is worsened by discrepancies between official census data and unofficial estimates of the Roma and Egyptian populations, ranging from 8 300 Roma and 3 368 Egyptians according to the 2011 census and unofficial estimates of something between 20 000 and 120 000 Roma and over 200 000 Egyptians in the country.

[T]here is little incentive to record and monitor statelessness accurately in official statistics [...] data gathered through the 2011 national census, and compiled by the Albanian Institute of Statistics (INSTAT) [indicate] 7 443 stateless persons in Albania [...] 3 874 were men and 3 569 were women [...] while UNHCR’s statelessness data for 2016 indicates a known stateless population in the country of 4 921.[...] [t]here have been no complaints to the Commissioner for Protection from Discrimination relating to the inability to acquire citizenship and the consequences that arise as a result.

Statelessness or the situation of being at risk of stateless can be a side effect of migration when a child is born abroad, where there are conflicts in nationality laws and/or barriers to civil registration. In Albania and many other countries statelessness is commonly connected with poverty which is at the same time the reason for seasonal or temporary migration abroad but in the case of return to the country of origin also a consequence of lack of proper documents such as citizenship, birth certificates, health insurance, official diplomas. Statelessness has a serious impact on access to any public services, including education, social service, health insurance and housing.

In 2018 Albania introduced legislative amendments in order to address complicated procedures and requirements that were, according to the 2018 report *ROMA BELONG. Statelessness, Discrimination and Marginalisation of Roma in Albania* often impossible to fulfil by Roma.

Moreover, despite documentation in theory not being a barrier to undocumented children being able to attend school, in practice it prevents them from obtaining school and university degrees attesting their education. [To register the birth of a child born abroad], a birth certificate must be obtained from the country of birth and must be in the form prescribed by the law: a legalised act, translated into Albanian and notarised [...] verified by the Foreign Ministry and the Ministry of Interior of the foreign country ... then [It] must be legalised at the Albanian Consulate in the foreign country. This document needs to be translated and the translation notarised. Once this has been done, the child can be registered with the civil registry office in Albania.

As the undocumented women often do not give birth in hospitals and therefore face additional barriers to acquire birth certificates.

The lack of registration of children at birth leaves a significant number of children without proof of where they were born, who their parents are or where their parents are from. Not having a birth certificate does not automatically indicate a lack of citizenship, but in Albania as in many countries, not having proof of birth, origins or legal identity increases the risk of statelessness. Significantly, the phenomenon of lack of registration can be transferred from one generation to the next as unregistered parents who also have no permanent residence are unable to secure nationality for their children. [...] The main cause of (risk of) statelessness of Roma relates to the challenges they face accessing civil registration in general, and birth registration in particular. [...] Without birth registration, Roma face barriers in obtaining other documents from the civil registry office and identity documents when they become adults. [...] [t]his problem is exacerbated when children are born abroad particularly if their parents live abroad with no legal status ... [or] live abroad irregularly [...] this problem is particularly significant for Roma children born in Greece. [...] Such children are likely to not have their births registered, or

only receive a birth notification which does not include the basic information (including name) required by the Albanian authorities to register their birth. The Ministry of Interior, in collaboration with Tirana Legal Aid Society (TLAS), identified more than 200 such cases already in 2014. As of December 2018, the “baby bonus cheque” was awarded immediately if the child was registered in the special office open in every maternity hospital in the country or when the parents decide to register the newborn later in the civil registration offices. 14 000 babies have benefited from the baby bonus cheque between 1 January to 1 October 2019.

Undocumented Roma cannot be registered in local employment offices which hinders their access to labour market trainings. Moreover, a set of “interconnected factors such as the lack of a permanent place of residence and forced evictions, illiteracy and the lack of a steady income” fuels the risk of lack of IDs among the group in question.

Furthermore, as Roma are less likely to have property ownership records or housing lease agreements, they face many barriers at the civil registry office when changing or registering their residence. ... Undocumented and stateless Romani adults face significant challenges obtaining identity cards and establishing their permanent residence.

Among the challenges related to the birth registration the report mentions: undocumented/irregular status parents must first resolve their own documentation issues; complicated court procedure to prove the parent’s birth; need for proof of/lack of permanent residence; complex legalisation procedures, additional documentation requested; and general unavailability of legal aid for the poorer segments of the society. Albania has tried to resolve this general problem in 2008 by adopting a new law “On Legal Aid” that should guarantee free legal aid to persons who cannot afford it. This Legal Aid Bill was during the time of the thematic meeting currently under state review. Apparently, the power of such legislation in most Roma statelessness cases is weak for several different reasons mentioned below.

[...] according to the law, legal aid can only be provided for civil registration matters where someone can prove that they cannot afford to pay the costs of legal representation and that they receive social assistance. As stateless and undocumented persons are not eligible for social assistance and are legally invisible, they cannot benefit from the legal aid system. As a result, legal aid on civil registration and nationality cases is provided by civil society organizations.

Other barriers to birth registration [...] include:

1. Communities living in rural areas far from health care centres leading to women giving birth at home;
2. Lack of information or awareness about the registration process among Roma;
3. Prejudicial attitudes among officials and other stakeholders resulting in a lack of action to identify Roma who are unregistered and at risk of being stateless.

[W]hile Albanian law provides for facilitated naturalisation in the case of stateless people, those undocumented but not officially recognised as stateless should apply for Albanian citizenship through the regular procedure. However, some of the requirements set out by the law, such as lawful and continuous residence for at least five years or a sufficient income and a habitation are impossible to be met. [...] [N]aturalisation as an Albanian citizen must be ratified through a decree of the President of the Republic; ... the Ministry of Interior checks and verifies these documents [...] but it has no right to evaluate the legal basis of any application [...] [which is] something only the President can determine. [...] A decision of the Ministry to refuse to deliver documentation to the President can be challenged in court. ... [T]he law does not provide a right of appeal against the Presidential decree to grant citizenship [...] [which becomes a matter of concern and debate on the necessity] to amend the law to introduce a clear right to appeal against Presidential decrees relating to nationality.

Nowadays Albanian authorities are generally more conscious of the challenges faced by the stateless Roma and there are some indicators that point to the positive developments on this aspect. For example,

According to the Ministry of Interior, in cooperation with civil society organisations, 148 Romani children had their births registered as late registrations and 500 Roma individuals were provided with civil registration assistance in 2014. [...] TLAS’[s] own statistics for 2015 showed 515 unregistered children, of which 60% were Roma. In the first six months of 2016, 274 unregistered children were identified by TLAS, of which, again 60% were Roma. In the second half of 2016, the organisation helped 408 unregistered children of which 270 were Roma.

In Albania recent policy developments addressing civil registration related challenges include the following measures:

- improving the technical tools, such as software for recording the database of stateless people;
- in-depth mapping of the population at risk of statelessness in Albania which was published in 2018;
- The Ministry of Interior's *"instruction to local registries to issue documents to all citizens regardless of whether they have paid income tax, and the Memorandum of Understanding with TLAS to support the registration of births to Albanian citizens abroad"*. The instructions were amended in March 2019;
- The possibility to enrol Roma children in schools without birth and vaccination certificates.

While the legal framework in Albania is largely non-discriminatory, pervasive negative stereotypes of Roma continue to undermine social and official attitudes towards Roma. [...] [t]he State Commission on Legal Aid has failed to ensure that Roma who are denied nationality and documentation are able to seek legal redress.

The role of Roma mediators should be strengthened in order to facilitate the process of solving the lack of identity documents of Roma and risk of statelessness. Albania has already involved mediators in different areas. In 2017, 4 Roma mediators were embedded/employed in the public service (NES). During 2017 Roma and Egyptian coaches and mediators were employed with the support of the EU/UNDP/ESERE Project (Economic and Social Empowerment for Roma and Egyptians). They worked closely in the field and were placed within the NES and Regional Employment Offices of Tirana, Durres, Shkodra and Berat respectively. Some mediators work also in the health sector. Their work consists of referring cases to health care institutions, ensuring that Roma are informed about the health care system, personal hygiene, tuberculosis, breast cancer, family planning, vaccinations etc. Social Services should be engaged once the person obtains their identification papers, so that they can be included in the various social protection programmes.

Report on the [Mapping of the Population at Risk of Statelessness in Albania](#)¹⁸ found 1 031 persons at risk of statelessness mostly due to difficulties to have their nationality confirmed. Half of these people were Roma and Egyptians, and some of them were Albanian returnees whose children were born abroad. A significant part of this group were children, almost 50% of them were under the age of 5. The geographic distribution of these people was the following: "Tirana (18% of the total), then Fier (12%), Shkodra (11%) and Gjirokastra (10%)", as well as Berat, which has a disproportionately high number.

The primary causes reported are: i) being born outside of Albanian territory (53%), ii) being born to parents who aren't married (12%), iii) being born at home (10%), and iv) being born in hospitals or maternity units that hold incorrect personal details on the mother (9%). Altogether 84% of those identified at risk of statelessness had obstacles related to birth registration procedures. Of those born outside of Albania, the majority of births were in Greece (53%), followed by Germany (29%), Kosovo (6%) with the final 12% listed as 'other'.

Pursuant to Article 102, paragraph 4 of the Constitution of the Republic of Albania and DCM no. 1072, dated 23/12/2015 "On the implementation of the National Action Plan for the Integration of Roma and Egyptians 2016-2020", the Ministry of Health and Social Protection took measures to reactivate the network of operators from the respective institutions involved in the implementation of the Action Plan.

The Ministry of Health and Social Protection presented their first report on the implementation and follow-up of the Action Plan for the year 2016. The Ministry trained all focal points for Roma and Egyptian issues for updating the electronic ROMALB data system which contains altogether 125 indicators filled by 190 civil servants at central and local level. This 2016 report will serve as a baseline for reports generated in the coming years on the implementation and monitoring of the NRISs. In June 2018, the Ministry of Health and Social Welfare prepared the second report for the implementation of National Action Plan for Roma and Egyptians covering 2017.

¹⁸ Prepared by the Tirana Legal Aid Society (TLAS), for UNHCR (July 2017-May 2018).

The new law on Social assistance (57/2019) was recently adopted and aims to:

- a) **determine the economic assistance and benefits** for the individuals, families in need and persons with disabilities who cannot meet their basic needs, skills and personal opportunities, maintaining their integrity and social inclusion due to limited economic, physical, psychological and social skills;
- b) **alleviate poverty and social exclusion** for individuals and families, and to create opportunities for their integration, by providing a system of interventions and services that improve their livelihoods;
- c) **guarantee social assistance** through immediate financial assistance to newborn babies;
- ç) **assure the good organization and functioning of the state institutions** responsible for the provision and administration of social assistance ”.

Beneficiaries include:

- Poor families with no income or insufficient income;
- Orphans who are not living in social care institutions;
- Parents with more than 2 children born simultaneously, belonging to families in need;
- Victims of trafficking, after leaving social care institutions, until their employment;
- Victims of domestic violence for the period of validity of a protection order or an immediate protection order that are not dealt with in social care institutions.
- Paraplegics and tetraplegics, who are declared by the decision of the Medical Commission for Assignment of Ability to Work;
- Persons with disabilities, who are declared incapable of work by decision of the Medical Commission for Assignment of Ability to Work;
- Persons with disabilities, declared by decision of the Multidisciplinary Disability Assessment Commission;
- Persons who are declared work invalids by decision of the Medical Commission for Assignment of Work ability, who receive a disability pension and a monthly supplement thereon, according to the status of work disability.

Children in need who benefit from economic assistance, as well as orphans who are not in institutions that pursue compulsory education under the legislation in force for pre-university education in the Republic of Albania, receive an additional allowance until the completion of their education mandatory, to the extent prescribed by the Council of Ministers ”, - underlines the new law.

The new law on social assistance includes also the baby bonus program for every newborn, to promote fertility in the Albanian society. The child's parent / parents is/are the beneficiaries of the immediate financial assistance (baby bonus) for the newborn baby. The measure and procedure of providing immediate financial assistance to newborn infants and the manner of cooperation between hospital and civil service institutions shall be laid down by decision of the Council of Ministers.

It also states that children in need, as well as orphans who are not in institutions who have been vaccinated according to the vaccination calendar, receive an additional payment for each vaccine administered, to the extent prescribed by the Council of Ministers.

The new law is innovative insomuch as it:

- makes it much easier for citizens to receive their **payments on time**.
- **Avoids bureaucracies, facilitates procedures and reduces documentations**, because the system is digitalized. **Roma and Egyptian families can apply only with ID card to benefited from social system**.

- **provides time restrictions** on staying within the economic aid scheme in order to encourage active working-age beneficiaries to integrate into the labor market by providing job opportunities and vocational training.
- provides **reasons when a family is excluded from the benefits of economic aid scheme** for six months to one year, since false declaration to the refusal of work suitable for persons in active working age.
- New exit – strategy to pass from a passive to an active scheme through employment and professional and vocational training. **This affects Roma and Egyptian families as their family composition is more diverse.**
- This law removes the maximum amount of 8000 lek economic aid. There are currently about 66 000 families beneficiaries of the economic aid scheme, of which 1 161 are Roma and Egyptians families. **This affects Roma and Egyptian families as their family composition is more diverse.**
- **Law 57/2019 "On social assistance in the Republic of Albania" in Article 8, point b, defines the beneficiaries of disability payments to all those individuals who do not meet the legal requirements for the employment disability pension under the social security law. This category is covered by the new changes of the law.**

The Municipality of Tirana has provided the following services to the Roma community in the municipalities of Shkoza and Lanabregas: the construction of shelters for 120 families, a rent bonus and social housing for 180 families; the creation of 53 jobs by the communities; Support to get ID to 180 people; 150 children registered in school and receiving free school bags and didactic material. (there are 49 children in kindergarten, 55 children from Shkoza and 46 children from Lanabregas attend school). 35 children take the school bus; 123 more beneficiaries from both communities 100 of whom receive meals; 89 receive psycho-social services; 120 households supported with food, meat, hygiene and sanitary supplies etc.; the number of street kids has decreased to 8 and the number of children enrolled in school has increased to 24; 100 received health cards; 23 children were vaccinated; 3 were supported to complete KMCAP documents. The multidisciplinary social centre employs one Roma from the community. There is one specialised staff from the community centre, which is under the General Directorate of Social Services, who addresses and follows the problems of the Roma and Egyptian communities by generating alternative solutions from a comprehensive perspective.

According to these reports eight municipalities (Tirana, Durres, Shkodra, Berat, Pogradec, Lezha, Kurbin and Korça) have approved local action plans for the integration of Roma and Egyptians, while two other municipalities, Kamza and Kavaja, are in the process of doing so.¹⁹ The gender perspective is given considerable importance in these action plans. The measures for Roma women in the local action plan can be monitored better in order to achieve better results.

It is noteworthy that The Tirana Legal Aid Society's contribution in this field for the past 20 years has brought on many positive changes such as the amended Civil Statute law, free legal aid for the Roma and Egyptian minorities and financial support for all the Roma cases in the court.

¹⁹1)Shkodra: Municipal Council Decision No.80 DATE 21.12.2017, available at http://www.bashkiashkoder.gov.al/web/Vendimet_e_Keshillit_169_1.php. 2)Durres: Municipal Council Decision No. 458 DATE 08.11.2017, available at <http://www.vendime.al/vendim-i-keshillit-bashkiak-nr-458-date-08-11-2017/> 3)Berat: Municipal Council Decision No. 83 DATE 25.10. 2017, available at <http://www.vendime.al/wp-content/uploads/2017/11/Vendim-i-Keshillit-Bashkiak-Nr.83-date25.10.2017.pdf>. 4) Tirana: Municipal Council Decision No. 4 DATE 31.01. 5) Lezha:Municipal Council Decision No. 51 DATE 09. 08. 2013 at http://www.lezha.gov.al/web/plani_alb_opt_1_283.pdf.

1.1.4 Situation in other countries of Western Balkans, Ukraine and Italy, partner countries²⁰

Bosnia and Herzegovina

Roma statelessness in Bosnia and Herzegovina is a result of aftermath of war and natural continuation to the large-scale population displacement in the 1990s. Therefore, this statelessness can be seen primarily as an unwanted by-product of the processes of war and creation of new states creating additional bureaucratic hurdles and new barriers to civil registration.

During the registration process of Roma needs held in 2009 by the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, only about 17.700 Roma were registered. According to the 2013 census, 12 500 Roma live in Bosnia and Herzegovina. However, based on the unofficial data provided by Roma NGOs, there are from 80 000 to 90 000 Roma in Bosnia and Herzegovina. These figures make Roma, after Bosniaks, Serbs and Croats, the fourth largest ethnic group and the biggest national minority in the country. Roma live on the whole territory of the country, i.e. on the territory of all 71 municipalities.

In Bosnia-Herzegovina difficulties registering new-born Roma babies are mainly due to the lack of identity documents of the parents, their lack of financial means to pay taxes and lack of knowledge of legal obligations and procedures and the duties of the state and municipalities. Identification documents are crucial for accessing all rights: a person without documents is legally invisible. These rights include right to education, employment, health care and social rights and participation in social and political life.

Birth registration in the country can be enhanced through continuous co-operation with the Birth Records Departments and through developing all three different forms of registration channels:

1. Regular registration – birth registration within the legal deadline
2. Later registration – birth registration after the legal deadline has expired
3. Birth registration based on a document from a foreign department

Concerning later birth registration, difficulties can be encountered after home births (outside a health institutions) and when there is no medical documentation of the birth. Also using someone else's health card when delivering in a health institution can lead to birth registration problems. These factors produce additional problems because procedures to determine the identity of the mother and father are long and mainly solved in courts. The required DNA analysis, proofs and lawyer's fees for appeals and representation at the courts all increase costs. Also the existing wide network of free legal aid provision in Bosnia and Herzegovina for people without identity documents should be mobilized in the work against Roma statelessness. Several NGOs also offer the same services (including Association *Vaša prava* Bosnia and Herzegovina).

Bosnia and Herzegovina has in recent years carried out several targeted campaigns in order to ensure the registration of children at birth and the authorities have supported different NGO initiatives promoting and assisting the process. According to representatives of the International Organization for Migration (IOM), the problem of birth registration has been largely resolved in Bosnia and Herzegovina. Families which have not registered their children are assisted to do so by the NGO *Vaša prava*. In the Republika Srpska, co-operation

²⁰ Extracts from the Report: ROMA BELONG, [Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine](https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf), the Institute of Statelessness and Inclusion, European Network on Statelessness and the European Roma Rights Centre, 2017, available at <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>, and Ending Childhood Statelessness: A study on Italy, Working Paper 07/15, European Network on Statelessness, 2015, available at https://www.statelessness.eu/sites/www.statelessness.eu/files/Italy_0.pdf.

with the Roma Association has been established regarding the registration of children at birth.²¹ There are currently 83 beneficiaries whose registration in birth records is pending, and who are registered in the Association *Vaša prava* Bosnia and Herzegovina.

In 2005, the state adopted the strategy for addressing the issues of Roma. In 2008, Bosnia and Herzegovina signed a declaration to join the Decade of Roma Inclusion 2005-2015 and the Council of Ministers adopted the first Action Plan for addressing Roma Issues in the fields of employment, housing and health care. This Action Plan on Roma issues was based on the mapping of Roma needs and figures stating that there are approximately 25 000-30 000 Roma in the country.

In 2013, the Revised Action Plan for Roma Issues in the fields of employment, housing and health care was adopted for the period 2013-2016 and since 2016, Bosnia and Herzegovina has continued to integrate the Roma through a multi-country Instrument for Pre-Accession Assistance (IPA) programme for the western Balkan countries - RCC Roma Integration 2020. In 2017, a new Action Plan for Roma was adopted accordingly for the period 2017-2020.

In 2018, Bosnia and Herzegovina adopted also an additional Framework Action Plan on issues in the fields of Educational Needs of Roma for the period 2018-2022. As a result of this measure an estimated 900 Roma were beneficiaries of programmes for employment and self-employment, and several thousand Roma were involved in prevention and educational programmes for improvement of health care.

From 2009 to 2018, the Council of Ministers allocated financial means for the implementation of the Action Plan in the total amount of 23 622 000 Bosnian Marks for employment, housing and health care.

With these funds, altogether 962 housing units were constructed or reconstructed and all in all 1017 Roma families were beneficiaries of different infrastructure projects in Roma settlements.

Italy

As the Council of the European Union has elaborated, states should collect reliable quantitative and qualitative data on statelessness and adopt and strengthen measures to count stateless persons on their territory.²² The Italian national census form provides for capturing data on statelessness. However, it only records those who have been granted stateless status and residing legally in Italy (732 people - 377 men and 355 women - as of 1 January 2018). Further, there are other census categories that may overlap with stateless people, meaning that the existing data does not provide a full picture²³. Statelessness has not been comprehensively mapped in Italy although some studies have attempted to document statelessness among the Roma population only. These studies provide estimates ranging between 3000-15000 Roma people who are either stateless or at risk of statelessness in Italy²⁴. All in all, data on the stateless population in Italy is very likely underreported as the authorities count only people who have been recognised as stateless in a dedicated determination procedure.

According to the Commission on Human Rights of the Italian Senate's 2011 Report on the condition of Roma, Sinti and Caminanti, about 15 000 Roma, born and living in Italy with their families for decades, found themselves in a condition of legal invisibility. It is noteworthy that this statelessness, in the context of Italy, consist mainly of children, who, despite of the fact that they were born on the Italian territory, inherit the

²¹ GRETA's Report and Government's Comments on Bosnia and Herzegovina, published 17 July 2017 <https://rm.coe.int/greta-2017-15-fgr-bih-en/1680782ac1>

²² Conclusions of the Council of the European Union and the Representatives of the Governments of the Member States on Statelessness, 4 December 2015, <http://www.consilium.europa.eu/en/press/pressreleases/2015/12/04/council-adopts-conclusions-on-statelessness/>

²³ ISTAT data on stateless people by sex and region of residence including trends in recent years: <https://www.tuttitalia.it/statistiche/cittadini-stranieri/apolidi/>

²⁴ CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013

status of statelessness from their parents. This happens, although Italy does have a safeguard in its nationality law for preventing childhood statelessness i.e. a child born stateless on Italian territory is Italian by operation of the law. However, in practice parents must make a request for recognition of the child's nationality before the authorities and this often requires evidence that parents struggle to acquire (i.e. proof e.g. from embassies that they cannot confer another nationality to the child). This is often the case of Roma children in communities coming from the Socialist Republic of Yugoslavia, who are now the second or third generation of the stateless immigrants living in Italy. These Roma have often spent their entire life in Italy, yet, have neither had their statelessness status determined nor the opportunity to acquire Italian citizenship, due to a number of reasons such as their lack of a permit of stay.

When the new Balkan republics were born, people who were living outside their country of origin were not automatically granted "new" citizenship, for instance because they were not registered in the population registry or because they encountered difficulties in interacting with the authorities. Yet they had also difficulties having their status of statelessness formally established in Italy. Although it makes things more straightforward, recognition of parents' stateless status is not a requirement for children who would otherwise be stateless to acquire Italian citizenship at birth (see Statelessness Index). All these people, who do not legally exist, face significant problems in their daily lives such as living in informal settlements, lacking birth registration and meeting other barriers to accessing basic social rights and justice²⁵. Roma children living in these communities are an especially vulnerable group of children and at a particularly high risk of being unable to prove their entitlement to be recognized as Italian. You can find more information on the themes of Prevention and Reduction of their Statelessness from the Statelessness Index²⁶

In Italy it is in general possible to access a procedure to determine stateless status, but for the Roma and Caminanti there are in practice many barriers to doing this, including the need to provide different kinds of evidence that many Roma are unable to produce. In Italy the recognition of stateless status can be achieved either through an administrative procedure or through a judicial procedure. The administrative procedure requires the following documents: a birth certificate, proof of residence in Italy and other documentation issued by the diplomatic authorities of the country of origin and/or (when considered necessary) also from the country where the concerned person previously resided proving that he/she does not possess that citizenship. The requisite most often missing is the proof of residence. The status of statelessness itself is certified by the Central Director of Civil Rights, Citizenship and Minorities.

This measure is a mere recognition of a condition which unequivocally appears to exist on the basis of the documents provided by the concerned individual, who must show not to be a citizen of any of the States with which he/she had a meaningful connection, as well as that it is actually impossible to obtain the recognition (or the reacquisition, in case of citizenship loss) of the foreign citizenship, including by means of appropriate administrative procedures. It seems obvious that the Roma are almost never able to satisfy the documentation requirements needed to succeed in this procedure.

The second way is the judicial certification of the status of statelessness before the judicial authorities, particularly when "documentary evidence is lacking, as judges of ordinary courts can rely on all instruments of enquiry to ascertain the status of the applicant".

The administrative and judicial procedures are equally complex, due to the lack of specific regulation. There is a sort of vicious circle in the system.

Stateless persons are not able to provide documentary evidence necessary for the recognition of their status for a simple reason: because they are stateless. This condition implies that they usually don't have ID documents, they face objective difficulties in obtaining documents from their countries of origin and for them it is necessary to return physically to that country. The undocumented status of many of these people can make such a return unfeasible: if they leave Italy, they may

²⁵ Thematic report on solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents, CAHROM(2014)10, available at <https://rm.coe.int/cahrom-2014-10-en-thematic-report-on-solving-the-legal-status-of-roma-/16808c7f68>.

²⁶ More information on the themes of Prevention and Reduction of Statelessness in Statelessness Index <https://index.statelessness.eu/country/italy>

not be allowed to return, and may even risk that their child be stopped at the border. This vicious circle determines for Roma to stay in a condition of uncertainty that has been going for decades, leaving three generations of Roma people in a sort of permanent limbo.

In 2015 Italy ratified (with Act 162/2015)²⁷ the 1961 UN Convention on the Reduction of Statelessness.

During the thematic visit in 2014, experts from partner countries considered that Italian authorities (in collaboration with embassies and consular posts of countries of origin):

need to take immediate steps to address the lack of passports and residence permits among members of the Roma communities, especially Roma originating from the Western Balkans who still have no clear legal status although they have been living in Italy for several decades in the worst scenario. They recalled that many of these Roma are not in possession of any identity document. In theory they are at permanent risk of being deported under the immigration legislation; in practice, however, they cannot be expelled from the country since they have no identity documents. It is equally impossible for these persons to integrate into Italian society as their lack of official documents prevents them from finding legal work or housing, from accessing public services and a fortiori from obtaining Italian citizenship²⁸.

The group of experts took note that until recently children born in Italy of parents with no identity documents obtained an Italian birth certificate. However, even where they hold such a certificate, Roma living on campsites are often unable to show that they fulfil all the conditions for subsequent recognition of Italian citizenship and have no choice other than to seek recognition as stateless persons first, without any guarantees as to the outcome of this procedure or of any subsequent naturalisation application.

Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019) summarizes the international obligations of Italy in an efficient way²⁹:

Italy is party to the United Nations 1954 Convention Relating to the Status of Stateless Persons (1954 Convention), which it ratified in 1962³⁰ and to the 1961 Convention on the Reduction of Statelessness, to which it acceded in 2015 following Hungary's recommendation³¹ It should be noted that when acceding to the 1961 Convention, Italy declared that "at the time of the deposit of the instrument of accession, the [Italian] Government avails itself of the right provided for under article 8, paragraph 3, of the Convention",⁸ in relation to the deprivation of citizenship of Italian nationals.

Italy has a good record of accession to core human rights treaties relevant to preventing statelessness and protecting stateless persons. These include the Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of Persons with Disabilities (CRPD)

Italy has many obligations under these treaties, including protecting the right to a nationality for all, preventing and reducing statelessness, prohibiting discrimination against minorities and stateless persons, and registering the birth of every child. For example, Article 7 of the CRC obligates states to register every child immediately after birth and to ensure that no child is left stateless. In this light, during Italy's most recent review by the Committee on the Rights of the Child, it was recommended in 2019 to address statelessness.

²⁷ Ratification of the 1961 UN Convention on the Reduction of Statelessness in Italy with Act 162/2015 <http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg>.

²⁸ Thematic report on solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents, CAHROM(2014)10, available at <https://rm.coe.int/cahrom-2014-10-en-thematic-report-on-solving-the-legal-status-of-roma-/16808c7f68>.

²⁹ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019) https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/ENS-ISI_UPR_Submission-Italy.pdf

³⁰ LEGGE 1 febbraio 1962, n. 306, Ratifica ed esecuzione della Convenzione relativa allo status degli apolidi, adottata a New York il 28 settembre 1954. Available at <http://www.gazzettaufficiale.it>

³¹ Asseccion to the 1961 Convention on the Reduction of Statelessness, approved in New York on August 30th, 1961 (2802), Available at <http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg> https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=en#EndDec

Similarly, Article 5(d)(iii) of the CERD prohibits racial and ethnic discrimination in relation to the right to nationality. The Committee on the Elimination of Racial Discrimination made a recommendation on statelessness among Roma, Sinti and Camminanti in 2017, as follows³²:

Ensure that the national strategy for the inclusion of Roma, Sinti and Camminanti communities for the period 2012-2020 leads to concrete and tangible improvement of the enjoyment of their rights by Roma, Sinti and Camminanti, including by eliminating statelessness, and ensuring that (a) Roma, Sinti and Camminanti communities are able to participate effectively in the development and implementation of the strategy; (b) the impact of the strategy is monitored and evaluated regularly, based on comprehensive data; (c) there are adequate human and financial resources to implement the strategy effectively.

Italy has been party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) since 1955. However, Italy is not party to the 1997 European Convention on Nationality (ECN) - though it signed the Convention in 1997 - nor to the 2006 Convention of the Council of Europe on the Avoidance of Statelessness in Relation to State Succession.

Consequently, these treaty bodies are relevant mechanisms in ensuring that Italy upholds its obligations to protect the right to a nationality and protect the rights of stateless persons under international law. Under the Italian legal framework, the ratification of international treaties enactment gives automatic legal effect at national level, even without the adoption of implementing legislation. Therefore, all of the above mentioned international treaties are considered part of national law. Consequently, several important international legal safeguards against statelessness are subject to direct application in the country.

Montenegro

A large number of Roma and Egyptian populations came to Montenegro during the Kosovo conflict. According to the existing and available data from the 2011 census³³, households and apartments in Montenegro 6,251 person said that they belong to the Roma ethnicity (1.01% of the total population). Population Egyptians counted 2,054 persons (0.33% of the total population), while Romany language speaks 5,169 persons. The largest number of Roma living in the territory of Podgorica (3,988), then Berane (531), Niksic (483), Bijelo Polje (334), Herceg Novi (258), and most Egyptians are in Podgorica (685), Niksic (446), Tivat (335) and Berane (170).

Montenegro accepted the project "*Decade of Roma Inclusion 2005-2015*". The Government of Montenegro in January 2005 adopted its Action Plan³⁴ for the Implementation of the Decade, with a tendency that with the projects in the fields of education, employment, housing and health care break the vicious circle of poverty and social exclusion of Roma from Montenegro life. Worldbank has produced an evaluation report on the implementation of this Action Plan³⁵.

Given the limited effects of the Action Plan on four priority areas, the Government of Montenegro in 2007 adopted "*the Strategy for Improving the Position of RAE Population in Montenegro 2008-2012*"³⁶. The strategy presented a set of concrete measures and activities in the four-year period targeted at the legal,

³² Committee on the Elimination of Racial Discrimination, Concluding observations (2017) CERD/C/ITA/CO/19-20.

³³ Montenegro census 2011, available at: <http://www.monstat.org/eng/page.php?id=392&pageid=57>

³⁴ Government of Republic of Montenegro (2005), Decade of Roma Inclusion 2005-2015 Action Plan, Podgorica

³⁵ Worldbank evaluation report on the implementation of the Decade of Roma Inclusion 2005-2015 Action plan for Montenegro and Serbia is available at: <http://documents.worldbank.org/curated/en/855151468102865205/pdf/352430SAM1Roma1Poverty1Discussion1Paper.pdf>

³⁶ Montenegro's Strategy for Improving the Position of RAE Population in Montenegro 2008-2012, available at: <http://www.europarl.europa.eu/document/activities/cont/201011/20101126ATT01488/20101126ATT01488EN.pdf>

political, economic, social, town-municipal, educational, health, cultural, informational and any other necessary fields.

This strategy clearly designated the responsibilities of different authorities concerning the implementation of measures and the related activities as well as their deadlines and financial costs. It also describes how the monitoring and implementation of the strategy projects and yearly obligation to inform the Government of Montenegro should be performed. According to the state representatives the measures and activities aimed at improving the situation of Roma and Egyptians resulted in very significant and visible, but not yet sufficient changes at the grassroots level.

In 2009 surveys conducted by UNHCR and UNICEF of Roma in Montenegro revealed that nearly 40% of those surveyed (more than half of whom were children) had incomplete personal documentation and needed to initiate a legal procedure to resolve this. Of those who were not registered, 66% were displaced persons and three quarters were children, particularly children born in Montenegro whose parents had fled Kosovo in 1999. More recent data has shown that the average birth registration rate in Montenegro of 99.4% drops to 94.5% for children under five living in Romani communities.³⁷

Although certain results have been fully achieved in the implementation of the Action Plan of the Decade of Roma Inclusion in Montenegro and Strategy for Improving the Position of RAE Population in Montenegro 2008-2012, the expected progress at improving the overall situation of the Roma and Egyptian communities as collectives has not reached the expected stage.

Financial resources for the four-year implementation of the Strategy were in total € 1.7 million and they were distributed through public tenders. Strategy has one-year Action plans and in order to follow implementation of the planned measures in the Strategy Government of Montenegro established a Commission and appointed also a National Coordinator for this work. This Commission, which approves the yearly use of funds for the implementation of projects, has determined clear priorities for their use. Priority areas of funding in the 2008 were education and the database, in the 2009 education and housing, in the 2010 education and personal documents and in 2011 also education and personal documents. Also *“the Strategy for Improving the Position of Roma and Egyptians for the period of 2012-2016”*³⁸, was realized through one-year Action plans, which specify the priority measures and activities to be performed in the given year.

Government of Montenegro adopted in March 2016, new *“Strategy for social inclusion of Roma and Egyptians in Montenegro for the period 2016 -2020”*³⁹. This strategy is in line with the identified needs and challenges related to social inclusion of Roma and Egyptians at national, local and EU- levels. The Strategy includes general and specific objectives set as guidelines for policy-making aimed at socio-economic inclusion of Roma and Egyptian community until 2020.

The institutions responsible for the implementation of the activities in the Strategy and the Action plans are Ministry for Human and Minority Rights, Ministry of Internal Affairs, Ministry of Education, Ministry of Culture, Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Sustainable Development and Tourism, Employment Agency of Montenegro, Governmental Office for Fight against Hyman

³⁸ Montenegro’s Strategy for Improving the Position of Roma and Egyptians for the period of 2012-2016, available at: https://adsdatabase.ohchr.org/IssueLibrary/MONTENEGRO_Strategy%20For%20Improving%20the%20Position%20of%20Roma%20and%20Egyptians%202012-2016.pdf?ID=1614

³⁹Montenegro’s official Roma Integration Policy Documents, annual reports and Roma Integration Roadmap Montenegro 2019-2021 are available at: <https://www.rcc.int/romaintegration2020/participants/5/montenegro>

Trafficking Centres for Social Work and others. Also the local self-government, NGOs and Roma Council participate actively in the implementation of Roma Integration measures.

The Strategy for Social Inclusion of Roma and Egyptians is based on the following approaches:

- Integrativity (comprehensive approach)
- Reachability/feasibility (measures are realistic and achievable)
- Active participation and involvement of Roma and Egyptian civil society (participation and cooperation)
- Monitoring and evaluation of implementation of the Strategy (evidence-based policy)
- Assessment of the effects of implementation of the Strategy (impact assessment)
- Special sensitivity to the inclusion of women and children (gender and child efficiency in other areas).

First, one of the key benefits proposed by the Strategy is an **integrative approach**. It is clearly defined that the effectiveness and efficiency of measures in one area depends on the efficiency in other areas. Therefore, the integrated approach is based on the complementarity of the effects of measures that will be carried out in all areas.

Second, the proposal of measures particularly insists **that they should be realistically attainable**. Drawing from the experience on the implementation of the previous Strategy, as well as from the wide experience of other countries, the Strategy is not formally written in order to exhaustively list a large number of measures. While at proposing such measures there is a dilemma whether there are sufficient financial and other capacities to implement them. In other words, the limit is set to the objectives and measures that are attainable and realistically achievable in the next period.

Third, during the definition of all the measures, and the same is expected during the implementation of the Strategy, the Government of Montenegro extensively **relied on civil society and in particular Roma and Egyptian NGOs**. In other words, the Strategy is guided by the principle of active involvement of Roma and Egyptian civil society and the strengthening of cooperation between the institutions of the system and Roma civil society.

Fourth, while defining the Strategy the special attention was given to **monitoring and evaluation of the implementation of the Strategy**. Moreover, based on recommendations from NRIS for the so-called policies based on data (*evidence based policy*), the entire segment of the objectives of the Strategy was designed as a result of the need for clear monitoring of the implementation of the Action Plan stemming from the Strategy. In this way, implementers of the Strategy will be able to incorporate corrective measures at any time of implementation.

Fifth, regardless of the evaluation of the implementation of the Strategy itself, certain mechanisms for **assessing the effects of the Strategy** (so-called *impact assessment*) was been built. To this end, an extensive research covering almost half of Roma and Egyptian households was been conducted for all the key indicators of the objectives. Thanks to this data, after four years when the deadline for implementation of the strategy expires, research with the same instruments will be conducted and the results of different measures and the situation as a whole will then be assessed based on the indicators set well in advance.

Sixth, and last, special attention in the **Strategy is dedicated to children and women from Roma and Egyptian population**, as categories that are identified by NRIS as population groups that are on the margins of margins. The measures proposed in this direction are specifically designed to solve the problems in the sphere of health care and education.

Key and the overall objective of the Strategy is the social inclusion of Roma and Egyptians by improving their socio-economic position in Montenegro. To achieve this objective, seven key areas, that actually represent the operationalization of the concept of social inclusion, were defined. Within each area are defined specific objectives, and consequently, every objective is achievable by applying proposed measures and instruments. These key areas are:

1. Housing
2. Education
3. Health Care
4. Employment
5. Legal Status
6. Social status and Family Care
7. Culture, Language, Identity

Legal status, statelessness and lack of IDs among the Roma and Egyptians

All successor states faced the same challenge and Montenegro, like others, applied very similar mechanisms against the statelessness. According to the Roma BELONG report⁴⁰ for example in Macedonia, all those people originating from other republics of the former Yugoslavia who were legally domiciled in the newly established Macedonia and possessed a Macedonian identity document, could naturalise. The main problem for the Roma was that applicants had to prove they had a registered permanent residence at the time of independence. Also the UNICEF and MONSTAT's Montenegro and Montenegro Roma Settlements Multiple Indicator Cluster Survey⁴¹ pointed out in 2013 that initially 15 years of uninterrupted residence were required. Montenegro amended this already in 2004 to a two-year transitional provision, following criticism of indirect discrimination against ethnic minority communities.

A special segment of the Strategy on inclusion of Roma and Egyptians is dedicated to solving the problem of legal status because it is the basis for the realization of other rights of displaced and internally displaced persons (I/DPs) and it is necessary for their integration. Possession of identification documents is a basic precondition for inclusion of Roma and Egyptian population in all aspects of social life.

Based on the implementation of the Strategy for improving the position of Roma and Egyptians in Montenegro 2012-2016 in order to regulate the status of foreigners with approved permanent or temporary residence in Montenegro, the Montenegrin Government, through the relevant ministries and institutions, cooperation with NGOs and with the help of international organizations, has made very visible and measurable results on what comes to the regulation of the Montenegrin citizenship for domicile Roma and Egyptian population.

The Ministry of Internal Affairs of Montenegro has provided the possibility for submitting the application to regulate the legal status of displaced and internally displaced persons residing in Montenegro, on the basis of an ID for displaced or internally displaced persons. This decision allowed to all registered displaced and internally displaced persons to submit their applications by the end of 2014 and thus enter into the procedure for obtaining the status of foreigner. If these

⁴⁰ ROMA BELONG, [Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine](#), the Institute of Statelessness and Inclusion, European Network on Statelessness and the European Roma Rights Centre, 2017, available at <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>

⁴¹ UNICEF & MONSTAT, Montenegro and Montenegro Roma Settlements Multiple Indicator Cluster Survey: Monitoring the situation of women and children, 2013. Available at: <https://app.box.com/s/zq4l86xhf53ck6gp2rftbr3cj3jazgdj> pp.18-19).

persons subsequently obtain and submit an identity card of a country of origin, they will, in accordance with the *Law on foreigners*⁴² get the temporary residence up to three years. However, if they obtain a travel document from the country of origin, they will obtain the legal status of foreigners with permanent residence in Montenegro. In this way is a significant opportunity has been opened for displaced and internally displaced persons to regulate their own legal status in Montenegro.

A positive example of commitment, concern and efforts of the Government of Montenegro regarding the regulation of the legal status of all persons including children, is the public call from 22 September to 22 November 2014 to persons residing in Montenegro but have no access to citizenship of any country or cannot prove that they have it, to contact the nearest unit of the Ministry of Internal Affairs, in order to submit data. The Ministry of Internal Affairs, as the carrier of primary jurisdiction and the UNHCR as a partner in the implementation, prepared a questionnaire for persons who have responded to the public call. This study confirmed that there was a number of persons who are living in Montenegro and do not have the citizenship. But analysis of the data obtained from these persons during the public call, lead to the conclusion that most of them have the legal option to seek the citizenship of some other state immediately after registration in the birth registry or through the program of free legal aid for those persons who are already registered in the birth registry.

In order to solve these and similar problems, the Government of Montenegro and the Government of the Republic of Kosovo signed in 2011 the Agreement on subsequent registration of internally displaced persons from Kosovo residing in Montenegro in the civil registers (of births, marriages and deaths) and the register of citizens of the Republic of Kosovo.

The Ministry of Internal Affairs of Montenegro addresses the requests for citizenship under the *Law on General Administrative Procedure* and the *Law on Montenegrin citizenship*, which both lay down the procedures for the proper and complete determination of the facts that are important for the legal acting in this administrative matter. This law can be considered as one of the most important developments in statelessness from the Montenegrin Roma point of view.

According to Montenegro's obligations, as a signatory of the leading international and regional documents in the field of statelessness, the Ministry of Internal Affairs of Montenegro and UNHCR will continue to cooperate and provide assistance in every case in order to carry out, as soon as possible, all the necessary procedures and to create good conditions for making decisions on individual requests.

The Law on Amendments to the Law on Extra-judicial Proceeding, adopted by the Parliament of Montenegro, prescribes the procedure for determining the time and place of birth in order to regulate the status of persons who are not registered in the civil registry and persons born outside health institutions. This procedure can be initiated through the proposal of the person who is not entered in the birth registry or at the proposal of any person who has a direct legal interest, or the guardianship authority. In order to facilitate the exercise of these rights the territorial jurisdiction can lie on any competent court. The provisions stipulates also that the first instance court will submit the final decision on the time and place of birth to the body responsible for keeping birth registry

⁴² Official Gazette of Montenegro , no.56/2014 and 28/2015 12/2018 3/2019

within eight days as of the date it becomes final, in order for this fact on birth to be entered in the birth registry. Furthermore, it exempts the proposer from any payments of taxes or other costs of the proceedings. According to the *Law on Civil Registry* the procedure for registration is up to 30 days from the birth or subsequent registration after the expiry of 30 days for children born in health institutions.

Memorandum of Understanding between the Ministry of Internal Affairs, the Ministry of Labour and Social Welfare and the United Nations High Commissioner for Refugees (UNHCR) was signed in Podgorica in 2014 and contains a set of measures and actions to be taken in order to finally resolve the legal status of displaced (DPs) and internally displaced persons (IDPs) in Montenegro. The Memorandum commits the Ministry of Internal Affairs, MLSW and UNHCR to jointly coordinate and implement operational measures and activities, in order to finally resolve the legal status of displaced and internally displaced persons in Montenegro. The Operational Team, where the Contracting Parties have delegated their representatives, was created in order to monitor the implementation of the measures and activities referred to in Article 1 of the Memorandum.

In Montenegro a legal solution introducing a procedure to facilitate determination of birth was established in 2015 when the state followed Serbia's earlier (2012) example on introducing a procedure to facilitate determination of birth for those whose births had remained unregistered for years⁴³

The Operational team is currently working intensively in order to help and support displaced and internally displaced persons in Montenegro towards obtaining the necessary missing documentation for seeking and obtaining legal status of foreigner with permanent or temporary residence in Montenegro. The Operational team initiates and coordinates the main activities in the field, as well as exchanges and updates information on displaced and internally displaced persons, between the Ministry of Internal Affairs of Montenegro, the Ministry of Internal Affairs of Kosovo, UNHCR, Directorate for Refugees and NGO "Legal Centre".

Combined mobile biometric teams of the Ministry of Internal Affairs of Montenegro, Ministry of Internal Affairs-Civil Registration Agency of Kosovo, UNHCR and the NGO "Legal Centre" have been intensively providing legal and practical support (interviews, biometrics and delivery of issued personal documents) to internally displaced persons from Kosovo, which from the end of the 90s have been residing in Montenegro.

In 2017, a UN official reported in the Roma BELONG report, indeed a significant improvement in the general situation of Montenegrin Roma during the last few years due to better cooperation both within the country and with other countries in the region⁴⁴:

... there are some challenges but Roma are definitely in [a] better situation than five years ago, sometimes even better than some non-Roma. I personally believe that this happened due to raising awareness of Roma and Egyptians on their position and rights. For example, in 2007... the number of NGOs dealing with this issue was insignificant and we could count them on the fingers of one or two hands. Today this is not the case. There are Roma women NGOs, NGO Young Roma, etc. If we look at 2003 census results, less than 3,000 of respondents declared themselves as Roma. General opinion was that this information doesn't reflect the real number. The NGO sector claimed that there are more than 20,000 Roma in

⁴³ European Commission, Commission Staff Working Document for Montenegro, 2015. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf

⁴⁴⁻⁴⁶ ROMA BELONG, *Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, the Institute of Statelessness and Inclusion, European Network on Statelessness and the European Roma Rights Centre, 2017, available at <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>

Montenegro. The 2011 census has shown that there are almost 9,000 of Roma in our country. I think that this number didn't change because of birth rate, but because of raised awareness of Roma and Egyptians that there is no problem in declaring that they are Roma. Moreover, they became aware of the significance to do so.... We have contributed to the improvement of situation significantly, but we weren't the only ones. Contribution came from all other organisations dealing with the issue of statelessness, including people affected by this problem who realized that it is very important to obtain documentation. (International Agency, Montenegro)

In the same report some interviewees expressed gendered factors still contributing significantly to the marginalisation and exclusion faced by Rom. This is due to gendered barriers to accessing healthcare for women, gender gaps in education and labour market participation and violence against women and girls. These gender discrimination factors can also be seen partly as a cause and consequence of Romani statelessness. A heightened risk of exploitation and abuse was linked to being an undocumented, unregistered Roma woman. The following example refers to the 2017 situation in Montenegro⁴⁵

Romani girls who have children before they reach the age of majority may also be unable, or too afraid, to register the births of their children, including because in some places they themselves may not have the necessary identity documentation. In Montenegro, parents can register their children born in healthcare facilities by submitting a hospital attestation and photographic identity documents. However, it is common that girls giving birth before the age of majority face problems from an administrative perspective as well. The ID cards of displaced minors do not contain a photograph, preventing girls from registering the births of their children. Many Romani women and girls give birth at home, in which case parents may need to provide additional documentation, which may be impossible to obtain.

2017 European Commission against Racism and Intolerance (ECRI) fifth monitoring cycle report on Montenegro⁴⁶ draws attention to the discrimination of the stateless Roma and foreigners with permanent residence:

An overarching problem is the fact that many Roma, particularly IDPs lack identity documents and birth certificates, and seldom register with the authorities. This hinders their access to rights such as education, employment and health care. [...] The 2011 Law on Foreigners and the national strategy that was adopted in order to regularise the legal status of IDPs provided two solutions for their integration: either through obtaining the status of "foreigner with permanent residence" which entitles them to access social rights and public services or voluntary return to their place of origin.

ECRI stated, based on the following facts that The Ministry of Interior (Mol), together with UNHCR and OSCE, has indeed taken steps to address the problem, and significant progress has been made⁴⁷:

According to Mol statistics, by the end of December 2016, a total of 14 243 applications were received and 13 614 persons were granted foreigner status with permanent or temporary residence. Mobile teams have also been deployed to travel to areas where Roma IDPs live and provide assistance to resolve their legal status issues. In this respect, a joint commission established among the Mol, Ministry of Labour and Social Welfare (MLSW) and UNHCR has dealt with individual applications of Roma IDPs who have encountered problems due to discrepancies between their Montenegrin IDP cards and documents obtained in their country of origin. By the end of April 2016, this Commission received 273 applications: while 177 applications were positively solved, 33 still require additional documents for verification, and 7 were suspended as the applicants did not have IDP status in Montenegro or returned to Kosovo. It is estimated that there are still at least 600 to 650 Roma IDPs without any identity document. While the Roma Strategy sets further measures, in cooperation with international donors for resolving legal status, ECRI encourages the authorities to assume full responsibility in finalising all pending applications with dedicated resources.

In the same monitoring report ECRI welcomed especially the 2015 amendment of the Law on Non-Contentious Proceedings to introduce a procedure for late birth registration, particularly aiming at regulating the legal status of Roma IDPs born outside Montenegro. However, is concerned that Roma may not benefit from it due to problems experienced in accessing free legal aid. Although the Law on Free Legal Aid defines

⁴⁶⁻⁴⁹ European Commission against Racism and Intolerance (ECRI) Report on Montenegro (fifth monitoring cycle), Adopted on 20 June 2017 CRI(2017)37, 2017 Available at <https://rm.coe.int/second-report-on-montenegro/16808b5942>

stateless persons lawfully residing in Montenegro as beneficiaries of free legal aid, this covers only judicial proceedings, not administrative ones, such as late birth registration for persons at risk of statelessness. Therefore, ECRI recommended in 2017 Montenegro amending its Law on Free Legal Aid to enable Roma at risk of statelessness to benefit from it during the late birth registration procedure⁴⁸

Serbia

In 2015, 16 years after the 1999 conflict, UNCHR reported⁴⁹ approximately 90,000 internally displaced persons within Serbia still have displacement-related needs and lack a durable solution. Efforts to support their local integration - unless or until return becomes possible - need to be intensified and accelerated.

A UNHCR's 2015 progress report "*Persons at risk of statelessness in Serbia – Progress report 2010-2015*"⁵⁰ provides reliable and representative data on different dimensions of statelessness of Roma, Ashkali and Egyptians (RAE) in Serbia. The report is based on the survey conducted for the needs of UNHCR by SeConS - development initiative group, with a sample that included 1,987 households in 154 settlements with a high concentration of the RAE population in 77 municipalities throughout Serbia. The number of people living in these households was 8,765. According to this study at least 2 700 (3.9%) Roma who lived in Serbian Roma settlements were at risk of statelessness and that 8% of children under the age of 4 were not registered in the birth registry.

The assessment was based on a CeSID survey of 800 internally displaced and 400 domicile Roma households in 18 municipalities that are estimated to house more than two thirds of internally displaced Roma in Serbia. It found that around 21,000 internally displaced Roma live below the at-risk-of-poverty threshold and some 20,000 in sub-standard shelters. Only some 550 wish to return to their homes in Kosovo. Based on the assessment's indicators, approximately 14,500 internally displaced Roma are still in need of housing assistance.

Mr Vladimir Cucic, the Commissioner for Refugees and Migration of the Republic of Serbia, confirmed that the Roma ethnic minority has been recognized as a particularly vulnerable category of internally displaced persons and that the Commissariat has been working on improving their living conditions and socio-economic status. He said that his office will continue funding the accommodation of internally displaced in collective centres until durable solutions are found. The Commissariat will also continue providing care and assistance for internally displaced Roma in formal and informal collective centers and Roma returnees under the Readmission Agreement. The funds for this purpose will be ensured from EU IPA and other international donors.

There have been improvements in recent years through joint actions of the state agencies, UNHCR (which has been assisting the internally displaced in Serbia since 1999) and NGOs, including a series of legal amendments (2012) leading to systemic solutions following the adoption of new Serbian legislation in 2012 which introduced a procedure to facilitate determination of birth in court for those whose births had remained unregistered for years and in cases when the standard administrative procedure cannot apply, including where parents are deceased or have no contact, or where there are no witnesses or other

⁴⁹ UNCHR report available at http://www.unhcr.rs/media/UNHCR_Roma_IDPs_Needs_Assessment.pdf

⁵⁰ UNHCR: Persons at risk of statelessness in Serbia – Progress report 2010-2015, available at <https://www.statelessness.eu/resources/unhcr-persons-risk-statelessness-serbia---progress-report-2010-2015>

evidence to confirm the birth. However, under the Serbian procedure, the court decision is not binding on the Ministry of Interior.⁵¹

New Law on Foreigners⁵² came into effect in Serbia on April 3, 2018. The Law is aligned with EU Directives which regulate this area, and the novelty is that all issues which the old law did not regulate, but which were applied in practice, have been now regulated. Through this law national legislation has been harmonized with that of the EU defining this area. The most significant change is that the possibility of appeal has been introduced which enhances the legal safety and guarantees the two-instance principle of decision-making. This law is of huge significance for prevention of discrimination against non-citizens and foreigners, particularly in relation to expulsion, forced removal and arbitrary detention.

There are still legal obstacles which prevent birth registration immediately after birth. In cases when parents do not possess an ID card or a birth certificate, it is not possible to register the child with all the necessary data required, including the child's name. This is due to two by-laws that regulate the procedure for birth notification and registration, which prescribe that the data on parents are entered in a birth notification and in the birth registry book on the basis of their ID cards and birth certificates (and if they are married, on the basis of their marriage certificate as well). This practically means that if the mother does not possess an ID card and a birth certificate, it will neither be possible to determine the personal name of the new-born in the birth registry, nor to register complete data on the mother in the birth registry. In other words, the child will not be registered in the birth registry book and will remain legally invisible and at risk of statelessness. For this reason, it will be necessary to conduct one or more additional procedures for the child (determination of personal name before a social welfare centre, subsequent birth registration procedure before a municipal administrative body or a court procedure for determination of date and place of birth, while, in some cases, a procedure for acquisition of citizenship as well). Until these procedures have been successfully solved (at best, it may take several months, while sometimes they may last for more than a year), the children will be left without birth and citizenship certificates and, consequently, in the most vulnerable period of life, without the rights to health care and social welfare, while their families, usually belonging to the poorest group of citizens, will be left without parental and child allowance.

The above-mentioned by-laws, which prescribe that children whose parents do not possess personal documents cannot be registered in the birth registry immediately after birth, contradict the Serbian Constitution and the ratified international conventions which guarantee the right to birth registration to every child immediately after birth. The Convention on the Rights of the Child (Article 7, paragraph 1) and the International Covenant on Civil and Political Rights (Article 24, paragraphs 2 and 3) guarantee the right to birth registration and to a personal name to every child, immediately after birth, as well as the right to acquire a nationality. The interpretation of legal standards in this respect was given by UNICEF in its Implementation Handbook for the Convention on the Rights of the Child: "According to Article 7, the child should be registered 'immediately after birth' which implies a defined period of days rather than months." It is also stated that "Universal registration requires that domestic law makes registration a compulsory duty both of parents and of the relevant administrative authorities." Furthermore, the Serbian Constitution prescribes that every child shall have the right to a personal name and entry in the registry of births, the right to learn about his/her ancestry and the right to preserve his/her own identity (Article 64, paragraph 2). Serbian Family Law stipulates that everyone shall have the right to a personal name and that personal name shall be acquired at birth (Article 13).

⁵¹ For more information and analysis, see Praxis, Analysis of Practical Application of the Law on non-contentious procedure determining the date and place of birth, 2014. Available at: http://www.praxis.org.rs/images/praxis_downloads/Analysis_of_Practical_Application_of_the_Law_on_Non-Contentious_Procedure_-_Determining_the_Date_and_Place_of_Birth.pdf and https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/CERD_94th%20Session_Joint%20Alternative%20Report_Serbia_Praxis%20and%20others.pdf

⁵² Official Gazette of Republic of Serbia, No. 24/2018, available at

According to Praxis It can be stated that in Serbia the normative framework in theory enables every person to be registered in the birth registry books, but in reality, this is not the case for the Roma. Therefore, many international organisations and UN treaty bodies have emphasised in their recommendations to Serbia that children, whose parents do not possess documents, must be enabled to register in the birth registry immediately after birth. These recommendations are the following:

- Concluding observations of the Committee on the Rights of the Child on the combined second and third periodic reports of Serbia – recommendation 31: “The Committee recommends that the State party ensure full implementation of the new regulations that enable immediate birth registration of children whose parents do not have personal documents, and initiate procedures to establish the nationality of children born to stateless parents or those whose nationality is unknown”;
- Universal Periodic Review of the UN Human Rights Council concerning Serbia from 2018 (A/HR/38/17) – recommendation 114.28: “Ensure that all children born in Serbia have access to timely birth registration immediately after birth, without discrimination and regardless of the legal or documentation status of their parents (Brazil)”;
- European Commission’s Serbia 2018 Report (SWD(2018)152 final): “The procedure for registering the birth of children whose parents lack personal documents needs to be monitored”.

In July 2018, Praxis submitted the Initiative to the Constitutional Court of Serbia for assessment of constitutionality and legality of the provisions of the two by-laws that prevent registration of children in the birth registry immediately after birth in cases where children’s parents do not possess personal documents. The Court’s decision is still pending.

In October 2018, Praxis also sent an appeal to Deputy Prime Minister Zorana Mihajlović, who is also the president of the Co-ordination Body for monitoring the implementation of the Strategy for the Social Inclusion of Roma for the period from 2016 to 2025. The Co-ordination Body is responsible for monitoring the implementation of Operational conclusions from the seminars on social inclusion of Roma, which are organised biannually and jointly by the European Commission and the Serbian Government. The operational conclusions from the seminar, which was held in October 2017, prescribe in Point 14 that:

the Ministry of Public Administration and Local Self-Government will continue to monitor the situation in the field of exercising the right to register in the birth register in accordance with the relevant laws and, in co-operation with the Ministry of Interior and the Ministry of Health, it will “ensure the fulfilment of the right to report and register births of children born in health institutions whose parents do not have personal documents, as well as of children born outside health institutions.”

Serbia has ratified in 2001 the United Nations International Convention on the Elimination of All Forms of Racial Discrimination⁵³. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. In its Concluding observations on the combined second and fifth periodic reports of Serbia in 2018 Committee on the Elimination of Racial Discrimination (CERD) refers to its general recommendation No 30 (2004) on discrimination against non-citizens and recommends Serbia to⁵⁴:

- (a) Pursue efforts to ensure that all non-citizens, including migrants and asylum seekers, enjoy their human rights and have access to adequate humanitarian services, including food, shelter and health services;

⁵³ United Nations (1965) International Convention on the Elimination of All Forms of Racial Discrimination, Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

⁵⁴ UN Committee on the Elimination of Racial Discrimination 2018: Concluding observations on the combined second and fifth periodic reports of Serbia CERD/C/SRB/CO/25. Available at: https://tbiternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/SRB/CO/2-5&Lang=En

- (b) Take urgent measures to ensure timely and fair processing of asylum claims, including by providing sufficient funding for relevant decision-making bodies, and to ensure consistent respect for the principle of non-refoulement;
- (c) Ensure that all children, including migrant children, are enrolled in primary education and implement inclusion programmes in schools to provide the linguistic and other support migrant children need;
- (d) Provide in its next periodic report disaggregated statistics relating to the number and outcome of asylum claims filed.

The State has taken several steps to try to improve the situation of Roma without identification. For example all unemployed persons looking for a job receive financial assistance (mailing costs such as stamps and public transport costs) when going to job interviews. People who are able to read receive a temporary passport, which has a validity period of at least three months from the day of issuance and ensures them the following rights: personal identification, emergency medical assistance, consult the Centre for Social Work, initiate the process of enrolment of children in primary or secondary school.

North Macedonia

In 2018, the Government of the Republic of North Macedonia made a public commitment to addressing civil registration challenges that contribute to the risk of statelessness in the country. This is an UNHCR survey, concerning 13 770 Roma residing in “the former Yugoslav Republic of Macedonia” between 2008 and 2011, identified 6,514 individuals facing documentation problems. This figure included 775 people who had never been registered in the birth registry books. More recently, the Macedonian Young Lawyers Association estimated that there are at least 664 persons at risk of statelessness in the country, with approximately 70% of these being Roma.

The Republic of Macedonia’s is a party to the 1954 Convention relating to the Status of Stateless Persons⁵⁵ and most other relevant international and regional treaties, including the European Convention on Nationality⁵⁶. However, the most significant gap is that it is not a state party to the 1961 Convention nor to the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession⁵⁷. It is not bound by the EU Returns Directive as it is not a member state of the European Union. Also UNCHR has assessed Macedonian law positively against international norms what comes to the practice relating to the withdrawal of nationality.

Macedonian law contains some safeguards against childhood statelessness, but there are clear gaps in the legislation concerning it. There is a safeguard for children born on the territory to stateless (or of unknown citizenship) parents to automatically acquire citizenship. This legislation does not cover children born to parents who may have a nationality but cannot confer this to their child. Furthermore, the provision in question applies only to minors. Children adopted by or born abroad to Macedonian nationals are protected from statelessness, as are foundlings. There is no legal provision preventing statelessness in the case of a Macedonian child adopted abroad, though a safeguard is applied in policy and practice.

Roma, Ashkali and Egyptians are disproportionately affected by different kinds of barriers to universal birth and civil registration. The registration process relies mainly on parents presenting at a registry office and being documented. In principle, the late registration is legislatively possible but in practice it is a very

⁵⁵ United Nations 1954 Convention relating to the Status of Stateless Persons Available at https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

⁵⁶ European Convention on Nationality European Treaty Series- No. 166, Available at: <https://rm.coe.int/168007f2c8>

⁵⁷ Council of Europe Convention on the avoidance of statelessness in relation to State succession Strasbourg, 19.V.2006, Available at: <https://www.unhcr.org/45178f542.pdf>

difficult and expensive procedure. Four Universal Periodic Review (UPR) recommendations have been received by the country on the issue of access to birth registration.

As the UNCHR Statelessness Index⁵⁸ has highlighted over the past years, that the updated Index data shows little concrete change, indicating a need for urgent reform and that there is no mechanism to identify or determine statelessness in the Republic of North Macedonia and so far no stateless protection status. Nevertheless, there are some safeguards and basic protections against arbitrary detention and preventing and reducing statelessness, but significant gaps still remain, which hinder the country's progress towards compliance with international standards for the protection of stateless people and prevention of statelessness.

In order to alleviate the situation, the Office for Management of Registers of Births, Marriages and Deaths issued On April 1, 2018, a public call for persons who live on the territory of the Republic of North Macedonia but are not registered in the Register of Births to visit the Branch Offices of the Office for Management of Registers of Births, Marriages and Deaths in order to complete a questionnaire via which they would provide their personal data. The Public Call was open until November 1, 2018, and, by then, a total of 700 persons were identified through this intervention.

Furthermore, a new inter-sectorial working group for addressing unregistered births. It was composed of representatives of the Ministry of Labor and Social Policy, the Ministry of the Interior, the Ministry of Justice and the Office for Management of Registers of Births, Marriages and Deaths. The aforesaid working group prepared the Law on Persons That Are Not Registered in the Registers of Births, which will apply only to those 700 persons that completed the questionnaire, who were identified via the public call and via on-field activities conducted by mobile teams composed of representatives of the Branch Offices of the Office for Management of Registers of Births, Marriages and Deaths, the Centers for Social Work, the Ministry of the Interior, Roma NGOs, and the Roma Information Centers. The data obtained via the questionnaire was recorded in a special Electronic Register, on the basis of which the Office for Management of Registers of Births, Marriages and Deaths and the Ministry of the Interior shall issue temporary excerpts from the Register of Births and temporary Identity Cards to these persons. Upon obtaining Identity Cards, these people would be able to exercise their rights in the field of education, to register in the Centers for Social Work and become entitled to social benefits, to exercise the right to primary healthcare protection, as well as to register in the Employment Centers and become active in the labor market. These people will be able to exercise the said rights and have the said status until the documents required for their registration in the regular Register of Births are provided. This law was adopted by the Government of the Republic of North Macedonia on 12 November, 2019, and is to be adopted by the Assembly in the coming period.

Ukraine

Similarly to the case of the Western Balkan states, the dissolution of the USSR in 1991 created problems with ID and citizenships. The last census (2001) reported 82 600 stateless persons and 40 400 who did not specify their citizenship. The State Migration Service reported 5733 stateless persons with residence permits in 2015. While most Roma in Ukraine have citizenship (although the Ombudsman and NGOs have estimated that around 10% of Roma are undocumented), many are at risk of statelessness as they are unable to prove their right to nationality under Ukrainian law.

A particular case is the situation of those who migrate to Ukraine with Transnistrian documentation (as Roma born on in the Transnistrian region of the Republic of Moldova) and are undocumented in the territory of

⁵⁸UNCHR Statelessness Index, Available at: https://index.statelessness.eu/sites/statelessnessindex.eu/files/INDEX-Country_Briefing_Macedonia_ENG.pdf

Ukraine. The current Russian occupation of Crimea and the armed conflict in the Eastern regions of Ukraine, in particular the Luhansk and Donetsk regions, (with the rise of the self-proclaimed Luhansk People's Republic and Donetsk People's Republic), and resulting displacement can also cause or increase (risk of) statelessness. In response to the displacement crisis, the Ukrainian Parliament took legal steps to provide for the registration of internally displaced persons (IDPs). However, registration is possible only for those who have official documentation. Undocumented IDPs, including Roma, are thus at risk of statelessness. Undocumented parents who intend to register the birth of a child first have to establish their own citizenship, or at least provide documentary proof of the legality of their stay in Ukraine. Additional requirements, plus a penalty fee for late registration, contribute to the problem.

A thematic visit on the topic of solving the lack of personal identification documents and improving access to social services was organised in Ukraine in 2017.⁵⁹ Observations included the lack of biometrical documents, the lack of an integrated system of social services and the requirement for a permanent address are significant obstacles to reducing the number of stateless Roma.

According to recent polls, there are between 10% and 17% of Roma in Ukraine without any identification papers. However, there appears to be neither a simplified procedure nor a government programme in place at present to assist Roma in obtaining such papers. Furthermore, as the Commissioner for Observance of the Rights of the Child, Non-Discrimination and Gender Equality observed, there are different practices, even in the same region, as regards the provision of identity documents by administration, including demands that are not in accordance with law.

Registration can be extremely difficult, particularly in cases where a long period of time has elapsed since a person was last registered; all the more so if this was in the Russian Federation or Belarus under the former Soviet regime. Many Roma were born outside of hospitals and thus are not able to prove their actual birth in order to obtain birth certificates. There were reported cases of registration services, contrary to law, refusing to register the birth of Roma children if neither parents had identification. ... Yet without a birth certificate, a child cannot enrol in school and without an identity card a person older than sixteen years of age cannot enrol in high school or lawfully obtain work. The lack of identity documents also affects access to healthcare and means it is impossible to exercise the right to vote. Roma children whose parents lack identity papers are especially penalised in this context and may even be deprived of rights to which they are entitled under international law, such as the right to an education.

A Secretariat of the Interagency Working Group on the realization of the plan of measures for implementation of the Strategy for the Protection and Integration into the Ukrainian Society of Roma National Minorities for the period up to 2020 has been established at the level of the Ministry of Culture and consultation has started to improve the planning and budget allocation for the next three-year implementation period of the National Roma Action Plan and to secure sustainable funding.

There is already a very well established cooperation between the Ministry of Culture and the Ministry of Interior on Roma issues as regards law enforcement and identity documents and the monitoring of human rights protection. Similar cooperation would be welcomed with other line ministries in particular the Ministry of Health Care and the Ministry of Education.

In order to substantially curb the number of undocumented Roma in Ukraine, there is a need to identify and analyze the concrete obstacles, propose possible solutions to overcome them and develop concrete recommendations/guidelines for public officials in charge at local and regional levels.

Ukraine could draw from the good practices identified in the partner countries of the thematic visit which include:

setting up mobile legal teams to reach the most marginalised population living in informal settlements sometimes in remote areas to facilitate the obtainment of birth certificates even if the parents lack official identification papers ... [through the use of Roma mediators] ... the clarification of the status of each individual defined through a corpus of statutory rights that

⁵⁹ CAHROM thematic visit on challenges and best practices in implementing Roma inclusion strategies (with a focus on solving the lack of personal identification documents and improving access to social services, including health care) Kyiv, Ukraine, 26-28 April 2017

are available to the person ... [lifting] the requested fee to register as citizen and obtain identity documents ... and an intensive awareness-raising campaign among the Roma population [about the necessity and importance of having identity documents].

The thematic report recommended that “since the estimated number of Roma living in Ukraine varies a lot between official census and NGO estimates”, the Ukrainian authorities should take steps to improve ethnic data collection.

A mapping of Roma communities would provide a better vision of needs and funds needed to improve their situation. “This mapping should take as far as possible into account internally displaced Roma who have left conflict zones and who might be temporary living in other parts of Ukraine.”

Roma community mediators are key to reach out to and access Roma communities as they are trusted and respected by them. In this respect steps should be taken to protect the sustainability of their employment, and financial resources secured to cover costs related to solving issues faced by Roma. For example in Ukraine, mediators:

have substantially improved access to services in the areas where they work. The mediators are now working in seven out of 24 oblasts of Ukraine and the city of Kyiv. These are: Zakarpattia oblast (Uzhgorod, Mukachevo, Perechyn, village of Berezny), Zaporizhzhia oblast (city of Zaporizhzhia), Donetsk oblast (city of Dniprodzerzhynsk), city of Kyiv, Kyiv oblast (city of Pereyaslav-Khmelnytsky), Kirovograd oblast (cities of Kirovograd and Oleksandria), Odessa oblast (city of Odessa) and Kharkiv Oblast (city of Kharkiv and Merefya).

During the six months from October 2015 to March 2016, the NFP reports that the network of 40 mediators covered 34,683 Roma, including 7,144 families, of which 11,125 women, 7,890 men and 15,668 children. Each month, mediators provide services to around 200 to 300 Roma IDPs.

The most popular services include:

- **Assistance with applications for identification documents [emphasis added];**
- Residence registration;
- Court appeals;
- Access to local state financial subsistence and services (utility subsidies, pensions, disability payment);
- Information about social protection and basic rights;
- Assistance with social housing and employment;
- Educational support to improve school attendance;
- Medical assistance with access to diagnosis and access to hospitals.

One of the main recommendations of the thematic report is the capacity building of the mediators.

Some positive structural results could be observed in Odessa with regards to the proposed pilot project of the Oblast Migration Service to introduce a simplified procedure for obtaining identification documents for Roma. Thanks to the active co-operation between the NFP, the Ministry of Social Policy and its Centres for Homeless, which provide registration for Roma in order to obtain passports, it became easier for Roma to apply for passports. ... agreements have been made with the State Centres for Homeless to register Roma, who need registration to apply for passports. The Odessa Oblast Migration Service will pilot a simplified procedure for Roma registration. Mediators help citizens apply for passports, birth certificates, pension certificates, disability documents or house registration books”.

II. CONCLUSIONS, COUNTRY SPECIFIC RECOMMENDATIONS AND GOOD PRACTICES

2.1. General conclusions on the topic of statelessness

Provision of targeted support to vulnerable individuals and groups who are not visible to the state systems is very difficult. Finding efficient measures for registration of Roma is therefore a prerequisite and a

fundamental step towards their successful integration – not only for overcoming socio-economic disadvantages but also for addressing issues such as discrimination, segregation and marginalisation.

Apart from being an obstacle to adequate policy planning, budgeting and service provision, lack of IDs opens the door for violations of rights. Among the persons with no documents, women and children are exposed to multiple risks, including to their health, safety, and dignity as human beings (such as human trafficking and slavery, child abuse, lack of education and life opportunities).

Undocumented people are also a societal problem due to numerous factors. Falling out of the health care, they are not under any disease control; being out of the welfare systems, out of education and the labour market, these people experiencing extreme poverty are may become engaged in illegal and criminal activities to provide the basic need for their families. The lack of possibility that individuals break the multiplication effect and exit the vicious circle of exclusion and marginalisation often becomes a demographic issue leading to an increase in social tensions.

For all these reasons, identification of adequate and efficient measures for tackling this issue is not only a matter of compliance with the international laws and of addressing fundamental human rights. It is a real challenge that states must address as a priority in order to ensure stability of the system but also security and well-being of all the citizens and the societies as a whole.

The comparative analysis of cases and practices as reported by CAHROM member states, established that registration of Roma is a challenge due to factors, including:

- Methods do not correspond to contemporary realities – old principles and procedures (inherited from the past) are still in use; the advantages of the new technologies are still not fully exploited;
- Lack of co-ordination among institutions and of synchronisation of efforts;
- Lack of structured co-operation on cross-border level;
- Need for better understanding of the national systems: is it possible to resolve the problem using and/or slightly changing existing legal provisions/structures instead of developing or adapting new structures/systems?
- Lack of comprehensive analysis of the problem (i.e. of the factors impeding registration of Roma);
- Lack of strategic planning (identification of short- mid- and long-term measures);
- Focus on consequences/effects rather than on factors and possibilities for their elimination;
- Lack of understanding that solving the registration problem is an INVESTMENT for the state and not an expense.

The experts recommended that countries amend their national laws and practices to ensure that stateless persons on their territory are identified, their statelessness determined, and protection status granted so that they can enjoy their rights under the 1954 Convention on the Status of Stateless Persons. They also need to make sure all children are registered at birth, regardless of their parents' legal status, and that children born in these countries acquire a nationality if they are otherwise stateless.

Regardless of not been discussed in this report, it should be acknowledged that discrimination/anti-Gypsyism and stereotypical views about Roma are according to many reports key factors and barriers playing part in the statelessness of the Roma. Discussions concerning the Roma statelessness often end up problematising the 'Roma' themselves and 'Roma way of life'. Therefore, it should be noted that the issue is not a problem with the Roma as such, but a problem of the state and society which for centuries has discriminated against and excluded Roma communities. It is a failure in integration policies, political will and trust/collaboration,

resulting in lack of opportunities, marginalisation, exclusion, and lack of access to information among Roma communities

Administrative obstacles

Administrative obstacles also contribute to the perpetuation of statelessness. For example, the children of undocumented stateless Roma parents in South Eastern Europe may be at risk of being born stateless. Because their parents have no identity documents, marriage certificate or residence permit, the birth of the child cannot be registered. This leaves the child without any documentation confirming his or her identity, parentage, and without proof of the links to country or countries that may consider the child a national. Moreover, many Roma adults have no identity cards, either because their births or marriages were never registered with the state authorities, or, in the case of many Roma displaced during the recent conflicts in the Balkans, because their documents are not recognized by the state in which they now live. Often the only option is DNA testing that would have to be acknowledged in court but most families cannot afford to take such expensive steps (the approximate cost for a DNA test is €300).

As the reasons for being undocumented are different (destruction of documents as aftermath of wars, children born abroad, inherited undocumented status, lack of financial resources for delivering missing document , etc.) a flexible approach in this regard is needed.

Contemporary approach to the issue

It is worthwhile reconsidering the approach towards the issue of the lack of ID and the risk of statelessness which resulted as a consequence of the Second World War: international legislation still reflects these past experiences, while today's challenges have a different dimension, related to access to public services (more regulated by different types of registration than in the past) and national security (contemporary threats of terrorism, human trafficking, migrants flows, hybrid warfare, etc.). At the same time, existing technologies (including biometric data) can contribute to more efficient and safer registration systems.

Registration as point of entry

Identification is a "point of entry" to integrate society and even more importantly to feel part of society. The practical consequences of not having ID and the risk of statelessness are numerous and include limited access to fundamental services such as education, employment, social welfare, health care and furthermore residence permits, property, elections, voting and travelling which provides a person with a feeling of full citizenship. The lack of ID and (risk of) statelessness also greatly increases the risk of becoming a victim of human trafficking, abuse and exploitation, including sexual and in the labour market; the most vulnerable groups include Roma women and children. It should be emphasised that in their daily lives persons without any identification documents are exposed to abuse by the authorities and law enforcement agencies but are at the same time helpless. However, there have been some attempts to remedy this situation with legal aid bills (this has been the case for example in Albania).

Orphans are also often victims of the system. Their guardianship is taken over by social services where they should be registered and provided with official identification that includes a registration number. This is currently not the case in North Macedonia. There are natural entry points to detect unregistered persons such as medical services, social services, employment agencies, educational agencies and institutions and police stations. These services should be integrated in a wider policy of identifying and mapping people without ID and have a direct link between each other and with the civil registry offices to report such cases in order to solve the issue effectively and efficiently.

The lack of documentation of Roma is a long-standing problem and indicates that in many cases or countries, the lack of ID and (risk of) statelessness within the Roma communities is overlooked, or not considered as an urgent problem, which is discriminatory. The lack of documentation is not only a problem for the individual

but also a problem for the state and a proactive approach should be taken to ensure all citizens and residents possess proper documentation and a nationality/citizenship. Immediate and automatic registration at birth is among the basic obligations of the state and the costs and potential risks due to a lack of ID far outweigh granting ID or citizenship. States must understand that granting identification papers is a positive investment for the future. For example, without ID school enrollment is challenging and when it is possible, the problem arises at the end of the studies when the student cannot receive the official diploma giving access to university or the labour market. There is an urgent need for reinforcing the immediate registration of newborns to give them a chance at a better future and to comply with international obligations under the UN Convention on the Rights of the Child as well as the best interests of the child.

Mobile teams

The process for obtaining identity documents should be simplified as much as possible thus avoiding unnecessary costly and long procedures and free legal aid should be offered. In case of spatial segregation, there is a need to reach the community with both information campaigns and documentation services. One good example of this are “mobile teams” visiting Roma settlements, collecting needed data and working on the process of delivering ID documents to the people who are not able to visit the state agencies. Such mobile teams operate in Bosnia-Herzegovina, Montenegro, Serbia and North Macedonia.

As Roma are disproportionately affected by the lack of ID, statelessness, there is a great need for information campaigns within Roma communities on the need and advantages of obtaining all necessary documents and being registered in relevant state agencies, such as schools, social welfare offices, the health insurance system, Public Employment Services (PES), and voting lists, etc. There is also a need to invest in, value and work with Roma communities, Roma-led organisations, and Roma activists to address these issues within the community in order to empower Roma communities to build trust between the community and the authorities and promote integration, collaboration and information exchange.

Adequate legislation and system of data collection

In some countries of South-East Europe, a child acquires the nationality of the country in which they are born automatically by operation of the law when they would otherwise be stateless, in line with the 1961 Convention on the Reduction of Statelessness and European Convention on Nationality. However, in practice and contrary to the Conventions, for that safeguard to kick in, parents may need to prove their own stateless status, which should not be a factor in the process, and in many cases is impossible. The criteria for a child to acquire nationality of the state in which they are born, should be whether the child would otherwise be stateless (regardless of the status of their parents). This is important, as parents may hold a nationality, but be prohibited by the law in their country of nationality from passing this on to their children.

An adequate national legal and legislative framework addressing the needs of undocumented people and ensuring their basic rights is recommended as opposed to ad hoc “band aid” solutions which are not synchronised among services and are ineffective in protecting stateless persons and preventing and reducing statelessness in practice.

In this context, an integrated shared database among national and local authorities and the exchange of data/information among different state’s agencies should be implemented; this also applies to co-operation and data exchange at the international level (for example, in the Balkan region, in post-Soviet countries, etc.).

Training all staff dealing with cases of undocumented people and people at risk of statelessness is essential so that the cases are treated efficiently, in line with international law, and without discrimination.

Furthermore, as the issue often has a transborder dimension, consular staff should be trained on the prevention and reduction of statelessness, including procedures for dealing with children born abroad.

As is often the case, lack of data in this regard makes it difficult to measure the scale of the problem and continued research is needed; moreover, once results are collected, further monitoring of the situation should take place. The question of “mapping” is a recurring issue discussed at international and national level and the topic of lack of ID and risk of statelessness could be included as well. This point should be addressed during the forthcoming CAHROM thematic visit on mapping and data collection (Croatia, 2019).

As there is often a lack of trust between Roma communities and state authorities and other stakeholders, it should the NGOs, including those representing the Roma and Roma mediators, which should definitely become active partners in the data collection process. The example of Albania, where co-operation between the UNHCR, state agencies and the NGO Tirana Legal Aid Society, allowed to identify in a few months over a thousand persons without identification documents, provide them with documents and change the legal system adequately (all within a period of about 18 months) is an excellent example of good practice because state officials frequently believe that of legal gaps identified during the implementation of the “Roma strategies” are not valid enough to change the legal system and adjust it to the needs of the most vulnerable groups. This problem was mentioned on several occasions during the visit (also during other CAHROM thematic visits and topics as well). This is why the example of the working group established by the Tirana Legal Aid Society with the support of UNHCR involving legal experts to draft amendments to the Law No. 10129 “On Civil Registration”, in agreement with Civil Status General Directorate in Ministry of Interior, was such a success. The wide consultation and co-operation at different levels with different stakeholders, including Roma, enabled them to better understand the key issues and adopt the new law in record time.

There was also common consensus that registration at birth is crucial and is included in the legislation of several countries; however, the civil registration of a child does not automatically entail the registration of its undocumented mother which would be the simplest way to initiate the process of documentation. The vicious circle of inheriting undocumented status by future generations of Roma must be stopped. The problem is furthermore aggravated by the phenomenon of early marriages and early child bearing.

Some countries have already set deadlines to register undocumented persons but often Roma are still not beneficiaries of that process. Similar actions addressing those lacking ID should be pursued. However, it should be noted that short-term/one-off registration processes are not in the long-term enough to address risk of statelessness. Therefore, legal and policy reform, training, anti-discrimination activities, and empowerment of Roma communities must also be implemented to achieve sustainable solutions.

The organised field visit showed the positive impact of registering Roma and relocating them from a deprived settlement to social houses with all additional and indispensable support, such as education and employment.

To conclude, apart from the daily problems resulting from the lack of ID, the psychological consequences of this deprivation can be devastating for individuals, especially when the situation has lasted for years or even generations. Indeed, it takes away the sense of belonging to a wider community and to a country. It is an extreme example of systemic marginalisation.

2.2. Key recommendations by the European Network on Statelessness (ENS)

International and regional obligations⁶⁰ regarding the right to nationality, prevention of statelessness, and protection of stateless persons should be incorporated into national law and implemented in practice.

1. Governments who have developed good practice procedures should share with others their perspectives and how they have achieved them especially in relation to universal birth registration;
2. Short-term registration campaigns are not enough – there is a need to have long-term legal change so there are no gaps in safeguards/legislation, for example in Montenegro and North Macedonia. It is clear from Montenegro that although they have made significant progress, there is now no longer a legal route for those who were unable to register during the previous campaigns or who have been identified since 2014, to regularise;
3. Need to be cautious about the trend towards ‘regularising’ groups of people as ‘foreigners’ in order to grant access to basic rights as this is NOT the same as recognising people’s right to citizenship – in the interventions by Montenegro and North Macedonia it was clear a preferred approach was to regularise undocumented or unregistered persons with a form of temporary residence as foreigners when in fact in many cases they and especially their children may be nationals (or stateless persons)⁶¹ – this kind of short-term ‘solution’ may be contrary to international law and effectively disproportionately denies groups of Roma heritage of their right to a nationality (and/or protection as a stateless person in the meantime);
4. Definition of statelessness and stateless determination procedure (SDP) development - UNHCR handbook on Protection of Stateless Persons (2014) should be referenced and widely shared to increase awareness of statelessness determination;
5. Caution not to dilute international standards already existing in terms of the right to a nationality, definition of a stateless person (international customary law), protection of stateless persons and prevention of statelessness – national law cannot trump international law especially where states are signatory to 1954 Convention;
6. Awareness-raising campaigns are needed but they are not enough if Roma communities are not involved/leading/informing them and if legal changes are not made to guarantee rights in law in the long term;
7. What can we learn from existing national legislation, for example foundlings provisions that already exist in them.

Country- specific ENS- recommendation can be found from the next chapter 2.3.

2.3. Country-specific conclusions and recommendations

Three common factors in the Western Balkans include:

- **Discrimination** – Everyone should benefit from all the government services, programmes and activities regardless of their ethnicity.

⁶⁰ Convention on the Rights of the Child 1989 (Article 7); European Convention on Nationality 1997; Convention on the Reduction of Statelessness 1961; Convention on the Status of Stateless Persons 1954; among others.

⁶¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

- **Lack of data** - All partners provided old census data and in most cases it is not very reliable. The Roma population and the amount of stateless people is often much higher than what is reported in the census.
- **Lack of trust in institutions** – However, the Roma trust in public institutions has slightly increased in the past years due to increased knowledge and understanding about the way the administration functions and their rights.

The experts from all the partner countries stated the importance of strengthening bilateral collaboration in the field of Roma issues especially in the Western Balkan countries where the migration of Roma is a common issue and the countries face the same challenges when dealing with the lack of identity documents and statelessness. The establishment of a new cross-border network within the western Balkan countries or better utilization of the existing WeBLAN- network would facilitate the process of resolving the lack of identity documents of Roma and their statelessness.

Albania

- Albania should establish statelessness determination procedures (SDPs) in line with UNHCR guidance as state parties to the 1954 Convention on the Status of Stateless Persons (ENS- recommendation)
- Full legal safeguards to grant nationality to all children born on the territory who would otherwise be stateless must be established in Albania and fully implemented in practice in all countries to prevent childhood statelessness in line with the 1961 Convention, European Convention on Nationality and the Convention on the Rights of the Child. (ENS- recommendation)
- Strengthening inter-ministerial co-operation between Ministry of Internal Affairs, Ministry of Foreign Affairs and State Ministry of Diaspora, Ministry of Health and Social Welfare and Ministry of Education.
- Albania should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS- recommendation)
- National Human Rights Institutions and Ombudspersons in Albania should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Steps should be taken to simplify complex civil registration procedures including to guarantee universal, immediate birth registration for all children born on the territory irrespective of the documentation or status of parents. This requires amendments to by-laws in Albania, training and capacity building for registry officials to ensure measures are implemented in practice, and partnership working with Roma communities to reduce barriers to registration (ENS- recommendation).
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS- recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees,

requirements for DNA testing, and compensation mechanisms should be put in place (ENS-recommendation).

- Documentation requirements to access legal aid must be waived in Albania in cases where free legal aid is being sought to resolve lack of legal identity (ENS- recommendation)
- Making all civil registration and documentation procedures, including birth registration universally accessible by simplifying complex procedures and eliminating barriers related to cost, time, distance and bureaucracy, court fees, or fees for DNA testing (ENS- recommendation).
- The new law on legal aid in Albania must be enforced and implemented immediately through by-laws and the allocation of sufficient resources (ENS- recommendation) and statistics on its implementation should be produced by the state.
- Albanian state must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS-recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).
- Ensuring that all international and regional obligations related to the right to nationality, prevention and reduction of statelessness, protection of stateless persons, non-discrimination, and birth registration are fully incorporated into domestic law and implemented in practice; the three key pieces of legislation in this regard are: the Law on Citizenship, Law on Civil Status and the Family Code;
- Safeguarding every child's right to a nationality, irrespective of the status, documentation, or actions of their parents
- Enhancing and simplifying the data collection concerning statelessness and the implementation of National Action Plan for the Integration of Roma and Egyptians in the CAHROM report and to create an online software similar to the one Albania is using (ROMALB-system), which is an easy and quick method for generating data for the Roma minorities at local and central level.
- Unification of the act of birth and/or birth certificates
- Recognizing a clear need for capacity building of state and municipal officials in this regard and outreaching different Roma Communities
- Collecting data and monitoring the development of Roma statelessness and lack of IDs through involving local communities because the registration is also a municipality level duty. However, the collaboration with the central level should be strong.
- Strengthening the role of Roma mediators in order to facilitate the process of solving the lack of identity documents of Roma and risk of statelessness.
- Establishing and strengthening international co-operation on the issue of birth registration for Albanian nationals whose children are born abroad and developing subsequently consulate services in the statelessness cases (in particular with Greece).

- Following-up closely the implementation of the Council of Municipality “Roma and Egyptian Community Development Plan 2018-2020” (approved in January 2018).

Bosnia and Herzegovina

- Bosnia-Herzegovina should establish statelessness determination procedures (SDPs) in line with UNHCR guidance as state parties to the 1954 Convention on the Status of Stateless Persons (ENS- recommendation)
- Bosnia-Herzegovina should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS- recommendation)
- National Human Rights Institutions and Ombudspersons in Bosnia - Herzegovina should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS- recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees, requirements for DNA testing, and compensation mechanisms should be put in place (ENS- recommendation).
- Bosnia-Herzegovina must take responsibility for ensuring that public services proactively identify, address and eliminate anti-gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS- recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).
- Developing all three existing forms of birth registration: 1) regular registration within the legal deadline, 2) later birth registration after the legal deadline has expired and 3) birth registration based on a document from a foreign department
- Developing possible solutions to difficulties that Roma face in the case of later birth registration after home births or births taking place outside health institutions and in cases when there is no medical documentation of the birth.

- Developing cost effective and quicker procedures for determining the identity of the mother and father. Currently the procedures are long and too costly both for the state and the Roma families because the cases are mainly solved in courts and require DNA analysis, proofs, paying lawyer's fees for appeals and representation at the court.
- Continuing the harmonisation of the legislation in Bosnia and Herzegovina through strengthening the co-operation of the Birth Records Departments and other relevant bodies.
- Improving electronic data exchange at all levels of and establishing sustainable mechanisms and support for citizens in the registration process.
- Mobilizing the existing wide network of free legal aid provision in Bosnia and Herzegovina for people without identity documents in the work against Roma statelessness. Several NGOs also offer the same services (including Association *Vaša prava* Bosnia and Herzegovina).
- Tying important benefits such as access to social services, tax exemption and different grants together with the necessity to register births.

Italy

- Italy should accede to the European Convention on Nationality (ENS- recommendation)
- Italy should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS-recommendation)
- National Human Rights Institutions and Ombudspersons in Italy should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS-recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees, requirements for DNA testing, and compensation mechanisms should be put in place (ENS-recommendation).
- Italy must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested in Italy for example in anti-gypsy violence but especially as discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS-recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face,

strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).

- Transnational co-operation with bilateral collaboration to solve specific cases and achieve concrete results with the collaboration of embassies and consulate offices is needed.
- Inclusion of marginalised and statelessness Roma in a wider intervention programme for disadvantaged groups.
- Improve the statelessness determination procedure by amending the law to incorporate the rights enshrined in the 1954 Convention and international human rights law; and to ensure that the procedure follows the procedural safeguards outlined in UNHCR's Handbook on Protection of Stateless Persons, including guaranteed access to the procedure regardless of status in the country, protection during the procedure, a shared burden of proof and ensuring rights and protection in line with the Convention are granted to all those recognised as stateless under the procedure⁶²
- Issue administrative guidance for decision makers to protect every child's right to a nationality by ensuring that existing provisions in the Citizenship Law providing for automatic acquisition of Italian nationality at birth by children born on the territory to stateless or unknown parents, or parents who cannot pass on their nationality, are correctly and flexibly implemented in practice.⁶³
- Take further steps to protect stateless people from arbitrary detention by introducing a clear referral mechanism to the statelessness determination procedure from return procedures; embedding consideration of statelessness as a juridically relevant fact in all decisions to detain; introducing a requirement in law to identify a country of removal prior to detention; considering and implementing alternatives to detention before deciding to detain; and providing documentation and temporary residence status to protect people from re-detention⁶⁴.
- Implement concrete measures to regularise the legal status of Romani people at risk of statelessness in Italy and guarantee the child's right to a nationality and legal identity, including through legal outreach and engagement initiatives and proactive information campaigns in consultation with community representatives for example by involving the National Roma Platform and the Roma, Sinti and Caminanti (RSC) forum (established in 2017) in activities (trainings, working groups, etc.) related to the topic of statelessness in order to facilitate their capacity building⁶⁵
- Amend Law 132/2018 providing for new measures to revoke citizenship, to eradicate discrimination between citizens by birth and naturalised citizens, prohibit the arbitrary deprivation of nationality and ensure the avoidance of statelessness⁶⁶
- Accede to the 1997 European Convention on Nationality and the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession⁶⁷

Montenegro

⁶¹⁻⁶³ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

⁶³ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

⁶⁴ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

⁶⁵ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

⁶⁶ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

⁶⁷ Consiglio Italiano per i Rifugiati, Institute on Statelessness and Inclusion and European Network on Statelessness (2019) Joint Submission to the Human Rights Council at the 34th Session of the Universal Periodic Review (UPR Third Cycle, November 2019), pages 55-56

- Montenegro should ensure its SDP (statelessness determination procedure) is fully in line with the 1954 Convention and UNHCR guidance. (ENS- recommendation)
- Montenegro should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS- recommendation)
- National Human Rights Institutions and Ombudspersons in Montenegro should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS- recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees, requirements for DNA testing, and compensation mechanisms should be put in place (ENS- recommendation).
- The deadline for submitting a request for settlement of legal status in Montenegro should be extended to ensure all eligible individuals can access the procedure. (ENS- recommendation)
- Montenegro must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS- recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).

Serbia

- Committee on the Elimination of Racial Discrimination (CERD) 2018 recommendations for Serbia:
 - Pursue efforts to ensure that all non-citizens, including migrants and asylum seekers, enjoy their human rights and have access to adequate humanitarian services, including food, shelter and health services (CERD 2018 recommendation for Serbia)

- Take urgent measures to ensure timely and fair processing of asylum claims, including by providing sufficient funding for relevant decision-making bodies, and to ensure consistent respect for the principle of non-refoulement;
 - Ensure that all children, including migrant children, are enrolled in primary education and implement inclusion programmes in schools to provide the linguistic and other support migrant children need;
 - Provide in its next periodic report disaggregated statistics relating to the number and outcome of asylum claims filed.
- Serbia should establish statelessness determination procedures (SDPs) in line with UNHCR guidance as state parties to the 1954 Convention on the Status of Stateless Persons (ENS- recommendation)
- Serbia should accede to the European Convention on Nationality (ENS- recommendation)
- National Human Rights Institutions and Ombudspersons in Serbia should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Steps should be taken to simplify complex civil registration procedures including to guarantee universal, immediate birth registration for all children born on the territory irrespective of the documentation or status of parents. This requires amendments to by-laws in Serbia, training and capacity building for registry officials to ensure measures are implemented in practice, and partnership working with Roma communities to reduce barriers to registration (ENS- recommendation).
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS- recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees, requirements for DNA testing, and compensation mechanisms should be put in place (ENS- recommendation).
- Serbia must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS- recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).
- Carry out necessary measures, including legislative amendments, to ensure that all children born in Serbia have access to timely birth registration immediately after birth without discrimination and regardless of the legal or documentation status of their parents.
- Ensuring consistent implementation of the Law on Permanent and Temporary Residence of Citizens and relevant bylaws and to take necessary measures to ensure that procedures of determination of residence for persons without legal basis for housing are conducted as a matter of urgency.

- Enrolling children conditionally to the elementary school and regular school attendance in cases when the parent(s)/guardian(s) do not have the necessary documents for the children's enrolment in elementary school, based on the mutual understanding that the necessary documentation will be provided later
- Not requiring the general qualification exam for enrolment in high school if the child in question has completed the 7th and 8th grade of elementary school abroad (with the exception of enrolment in philological and mathematical gymnasium and art school).
- -Allowing children who have completed elementary school abroad enrolment in high school if they can prove the completion of elementary school with a certificate.

North Macedonia

- North Macedonia should establish statelessness determination procedures (SDPs) in line with UNHCR guidance as state parties to the 1954 Convention on the Status of Stateless Persons (ENS-recommendation)
- North Macedonia should accede to the 1961 Convention on the Reduction of Statelessness (ENS-recommendation)
- Full legal safeguards to grant nationality to all children born on the territory who would otherwise be stateless must be established in North Macedonia and fully implemented in practice in all countries to prevent childhood statelessness in line with the 1961 Convention, European Convention on Nationality and the Convention on the Rights of the Child. (ENS- recommendation)
- North Macedonia should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS-recommendation)
- National Human Rights Institutions and Ombudspersons in North Macedonia should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Steps should be taken to simplify complex civil registration procedures including to guarantee universal, immediate birth registration for all children born on the territory irrespective of the documentation or status of parents. This requires amendments to by-laws in North Macedonia, training and capacity building for registry officials to ensure measures are implemented in practice, and partnership working with Roma communities to reduce barriers to registration (ENS-recommendation).
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS-recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees, requirements for DNA testing, and compensation mechanisms should be put in place (ENS-recommendation).

- North Macedonia must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS-recommendation)
- Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).

Ukraine

- Ukraine should establish statelessness determination procedures (SDPs) in line with UNHCR guidance as state parties to the 1954 Convention on the Status of Stateless Persons (ENS- recommendation)
- Full legal safeguards to grant nationality to all children born on the territory who would otherwise be stateless must be established in Ukraine and fully implemented in practice in all countries to prevent childhood statelessness in line with the 1961 Convention, European Convention on Nationality and the Convention on the Rights of the Child. (ENS- recommendation)
- Ukraine should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate explicitly includes the reduction and prevention of statelessness among minorities. For example, in Serbia, the Deputy Prime Minister has a nominated lead to protect the rights of Roma that includes civil registration matters, but not explicitly addressing statelessness. Effective co-ordination is necessary for successful integrated policy and programming. Linkages between relevant ministries and among national, regional and local government must be established and measures to foster action on Roma inclusion strengthened. Meaningful Roma participation at all levels is essential to ensure the appropriateness and effectiveness of programming. (ENS-recommendation)
- National Human Rights Institutions and Ombudspersons in Ukraine should also have a mandate to monitor and report on statelessness issues. (ENS- recommendation)
- Steps should be taken to simplify complex civil registration procedures including to guarantee universal, immediate birth registration for all children born on the territory irrespective of the documentation or status of parents. This requires amendments to by-laws in Ukraine, training and capacity building for registry officials to ensure measures are implemented in practice, and partnership working with Roma communities to reduce barriers to registration (ENS-recommendation).
- All punitive fines for failure to register the birth of a child should be abolished in Ukraine (ENS-recommendation).
- Concrete steps should be taken to improve the collection and monitoring of data on birth registration, documentation status, statelessness, and access to fundamental rights such as education and health care, with appropriate steps to ensure all data is fully anonymous. (ENS-recommendation)
- Effective remedies should be made available to all those seeking to resolve their documentation status, including access to free, state-funded legal aid, removal or reduction of court fees,

- requirements for DNA testing, and compensation mechanisms should be put in place (ENS-recommendation).
- Documentation requirements to access legal aid must be waived in Ukraine in cases where free legal aid is being sought to resolve lack of legal identity (ENS- recommendation)
 - Ukraine must take responsibility for ensuring that public services proactively identify, address and eliminate anti-Gypsyism, including stereotypical views or actions among their staff through improved leadership, training, and capacity building, as well as better monitoring and implementation of robust complaints procedures for service users to seek redress. The rise in anti-Gypsyism, manifested for example in anti-gypsy violence, discriminatory political rhetoric, and the disproportionate impact of discrimination against Roma must be urgently addressed. (ENS- recommendation)
 - Funding should be invested in Roma-led initiatives to tackle societal prejudice and discrimination, through working with Roma communities to identify the needs, concerns and barriers they face, strengthening and listening to Roma voices and opening spaces for dialogue between Roma communities and decision makers (ENS- recommendation).
 - Establishing a system of early identification and intervention for children who are not registered through closer co-operation between health care facilities, civil registrars and schools residing at the area of civil registrars. However, as this system only focuses on children, it does not address the issue of obtaining a passport.
 - Developing a proactive approach with social services for the representation of the undocumented Roma in courts.
 - Necessary legislative changes
 - o Strengthening Roma access to free legal aid
 - o Strengthening Roma access to justice through amendments to the Law on Court Fees and to the Civil Procedural Code for example no need to prove identity before court in cases when identification for the purposes of civil registration is the reason.
 - o By-laws making registration of applications for ID and responses thereto obligatory - both for SMS and civil registrars.
 - o Revert the changes to medical registration procedure made in 2016 which requires birthing mothers to register with a passport.
 - Further simplifying the procedure and intensifying the use of *ex officio* inquiries.
 - Raising general and professional awareness on the statelessness Local authorities should benefit from relevant awareness raising and capacity building from the regional and national authorities to gain the understanding and use of a non-discriminatory approach. eg: requirement of documentary proof of the place of registration is not *de jure*, but *de facto*
 - Building an effective dialogue and trust between the municipal, regional and state administration, NGOs and Roma communities taking into account the diversity of Roma communities
 - Following the example of The Kharkiv region which has undertaken a mapping exercise to assess more accurately the number of Roma living in the region to allow for more targeted and customised inclusion policies. The mapping was carried out by the Kharkiv National-Cultural Society “Romen” in partnership with the Kharkiv Regional Centre for Social Services for Family, Children and Youth and financed by international donors. The model was successful and could be used on other regions of Ukraine such as other regions of Ukraine such as Odessa and Uzhhorod. However, reliance on NGOs is too important and the State must take ownership of this process and involve various ministries and

officials (social services, education and/or local authorities, especially in rural areas) to ensure sufficient and comprehensive coverage. The use of ex officio inquiries should also be intensified.

- Examination of practices with electronic civil registration (for example in Bulgaria: civil personal identity number)
- Training of police and civil servants (in non-discrimination and facilitation of process)
- Supporting the mapping project of the Council of Europe which is currently been implemented in Ukraine.

Council of Europe

Social housing, social inclusion and the registration of persons without ID must be discussed beyond the borders. The Council of Europe should take this into consideration.

- All participants agree that CM Rec(99)18 of 15 September 1999 on the avoidance and reduction of statelessness should be included in the next CAHROM Terms of Reference. The proposal will be made at the next CAHROM Plenary session;
- The Council of Europe should take part in the UNHCR high-level event on statelessness on 7 October 2019 in Geneva where member states can formally commit to fighting the issue through pledges. Establish regular contact with ENS and UNHCR about Council of Europe's participation in this event;
- A draft of the report of this thematic visit shall be sent to participants by mid-January 2019 for comments, to the CAHROM Bureau in February 2019 for examination and presented at the CAHROM Plenary session in June 2019 for adoption.
- Lessons learnt and good practices identified will be further discussed in Ukraine when implementing the Council of Europe Action Plan for Ukraine (with the help of ECRI).

The importance of the issue of lack of ID and statelessness was highlighted by the European Network of Statelessness and the UNHCR and should be put at the forefront of discussions concerning Roma as it is the foundation to help resolve related issues such as education, health, housing and employment.

2.4. Good practices identified by the participating states

Although the current international practice of transfer of knowledge from one state to another and adaptation of good practices can facilitate societal changes, policy and decision makers need to be aware of the fact that sometimes good practices are highly contextual and might not be appropriate if applied in different situations. Although disadvantages experienced by Roma throughout Europe are similar, the state systems, legislative frameworks and established procedures might create specific circumstances for the integration of the vulnerable individuals and groups.

At the same time, models that seem totally different at first sight might prove relevant for adaptation if they provide solutions to situations, which have occurred due to a similar interaction of factors. Contexts can sometimes be similar at their structural level – i.e. as a type of legislative provision in place, procedures, organisational arrangements, or even the causes behind the challenges experienced.

Therefore, prior to identifying good practices for transfer and adaptation, governments and responsible institutions need to have a comprehensive understanding not only of the problems (and all their causes) that they aim to address but also of the systems (legal, administrative, political, social, etc.) in place. With respect to the issue of undocumented Roma, among the first steps towards finding adequate solutions of the problem are the:

- identification of actors and factors;
- identification/development of model solutions that can address adequately the factors;
- identification/development of measures to provide solutions to concrete problems;
- identification of the responsible bodies to implement the measures and develop their capacities;
- Identifying the resources (needed vs available);
- establishment of monitoring and control over the implementation process to ensure synergy between measures and co-operation between actors.

UN High Commissioner for Refugees (UNHCR) has published in 2016 an extensive Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons which provides a broader overview of the existing good practices in different countries⁶⁸

#Roma Belong project⁶⁹, a joint initiative of the European Roma Rights Centre (ERRC), the Institute on Statelessness and Inclusion (ISI) and the European Network on Statelessness (ENS) in collaboration with partner organisations in Albania (Tirana Legal Aid Society), Bosnia and Herzegovina (Association *Vaša prava* Bosnia and Herzegovina), “the former Yugoslav Republic of Macedonia” (Macedonian Young Lawyers Association), Montenegro (*Mladi Romi*), Serbia (Praxis) and Ukraine (*Desyate Kvitnya*). The project aims to better understand and address Romani statelessness (and risk of statelessness) in the western Balkans (Albania, Bosnia and Herzegovina, Kosovo, “the former Yugoslav Republic of Macedonia”, Montenegro and Serbia), and Ukraine. The project and its reports offer an overview of the problems and measures taken, highlighting the impact of statelessness of Roma in accessing public services.

West Balkan Legal Aid Network (WEBLAN)⁷⁰ network of non-governmental organisations: Association *Vaša prava* (Bosnia and Herzegovina), Praxis (Serbia), Civil Rights Programme (Kosovo), Legal Centre (Montenegro), Macedonian Young Lawyers Association (“the former Yugoslav Republic of Macedonia”), and Information Legal Centre (Croatia), operated since 2012 as Western Balkans Legal Aid Network – WEBLAN with prevention and reduction of statelessness in the western Balkans as one of its goals; one of the activities is the transborder co-operation in delivering documents requested by clients from neighbouring countries.

⁶⁸ UN High Commissioner for Refugees (UNHCR) Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons. Available at <https://www.refworld.org/docid/57836cff4.html>.

⁶⁹ <https://www.statelessness.eu/romabelong>

⁷⁰ http://ipc.com.hr/en_UK/about-ipc/western-balkans-legal-aid-network-weblan

A workshop and presentation of reports of the networking countries was held in Strasbourg on 10-11 October 2018.

The following section presents a list of some tools adopted by the participating CAHROM member states in order to tackle the problem of undocumented people on their territories. The information has been collected from input during thematic visits and through reports and should be considered as an illustration and not exactly a detailed stocktaking of national practices.

Albania

Legal Reforms

- Primary and secondary legal aid provided by the state; exemption from court fees
- Law “On civil status” (Law no. 10 129/amendments 10.10.18)
- Article 38: When the act of birth issued in another country has incomplete/inaccurate data, the court shall certify the legal fact of birth for registration in the civil status offices.
- Article 7/3: Birth declaration not submitted within 60 days of birth – issued by the responsible institutions
- Article 41/1: Reporting and registration of births with a special procedure. Ministerial guideline for establishment of online software for birth registration from every hospital in Albania.

Technical Support

- Technical support provided to stakeholders by the civil services - assistance for obtaining documents for children born abroad
- Special software for alerting and facilitating registration
- Civil registry offices - recording and solving cases of unregistered individuals and children (born inside and outside health institutions/inside and outside Albania)
- Training for civil servants
- UNCHR and Tirana Legal Aid Service (TLAS): Mapping of the Population at Risk of Statelessness in Albania
- Awareness Raising among and direct contact with stakeholders (for identification of people with no IDs)

Albania has developed some very good practices to support Roma and Egyptian minorities.

- In 2017 the General Directorate of Civil Registry created and put in place an electronic online registering programme for children in support of the civil status office, through which the officers of the offices will reflect in this programme all cases filed for registration of children and that according to them cannot be registered. In order to clarify the functioning of this programme, as well as to address concrete cases or typologies, during 2017 and during the first six months of 2018, meetings/trainings were held with Civil Status Officers in all 12 districts of the country.
- The new legal changes to the Civil Status, recently adopted by the Albanian Government, provide some facilities related to the registration of children. The role of state bodies in the cases when the parents concerned do not register within a certain deadline their child, then the institutions will intervene and perform the declaration or act of birth.

- The Government of Albania undertook this new social policy called Baby Check Pay in 2018. Allowances are 400 000 lek for the first child, 800 000 for the second and 1 200 000 for the third child. The information is digitalised and will be collected within the year of birth. This policy should create an incentive for Roma parents to register their children.
- Report of UNHCR to Parliamentarian Group “Friends of Children”, July 2018. From September 2017 to May 2018 with the support of UNHCR, the Tirana Legal Aid Society conducted a Mapping of the Population at Risk of Statelessness in Albania.
- A working group of legal experts was established to launch a consultative and legislative process to draft amendments to the Law No. 10129 “On Civil Registration”, in agreement with Civil Status General Directorate in Ministry of Interior. Following the conducted consultation sessions with the Parliamentarian Commission on Legal Affairs, Public Administration and Human Rights, the law was approved and solutions for the identification of stateless persons or persons without ID was put into place. The law gives a special attention on how the Roma and Egyptian minorities will benefit from the implementation of the law. The Government of Albania has started the work on drafting the secondary legislation.
- The "e-albania.al" application which serves as an “entry” through which any interested person can obtain through the internet electronic services provided by public institutions in Albania at any time and from anywhere. Through this system 26 documents can be downloaded including, family certificates, personal certificates, health cards, marriage certificates, issuance of certificates of ownership etc.
- The Albanian welfare system’s general policy of connecting beneficiaries of social housing with birth registration and ID documents and grants rent bonus for disadvantaged people

Bosnia and Herzegovina

- Co-operation between all relevant institutions and international donors supporting the processes: Ministry for Human Rights and Refugees, Ministry for Civil Affairs, Ministry for Local Administration, Federation Police and Cantonal Police, legal aid Association *Vaša prava*, municipalities, social welfare centres and UNHCR
- A set of legal frameworks addressing the needs of persons lacking legal status and personal IDs
- Providing accessible and free legal assistance through municipalities and other administration in Bosnia and Herzegovina as well as by a wide network of institutions and NGOs (including "Your Rights" project). A municipality or a city is obliged to establish free legal aid support for birth and death registrations to socially vulnerable cases or national minorities, to ensure all citizens are registered. This registration is free of charge and the municipalities and the authorities in the Federation of Bosnia and Herzegovina will exempt them from paying taxes
- Involving Roma mediators to identifying lack of ID documents and contributing to solving legal status of the stateless Roma and Roma without IDs.
- Continuing awareness raising campaigns and grass-root activities among Roma communities – workshops, leaflets and brochures with basic information and guidelines on necessary procedures for registration in birth records, media information campaigns in the media, Roma NGOs campaigns
- Training for representatives of the health institutions, social welfare centres, departments for birth registration and Roma NGOs
- The CIPS (Citizen Identification Protection System)

Italy

- Children born in Italy of parents with no identity documents can obtain an Italian birth certificate.
- There is a legal safeguard in Italian Nationality Law to grant otherwise stateless children born on the territory Italian nationality by operation of the law. However, improvement is required to ensure this is implemented in practice and in line with international law (1961 Convention).
- Setting-up of the Juridical table involving key actors responsible for, involved in or promoting the registration of citizens (Ministry of the Interior, UNAR, UNHCR and civil society) to identify, understand and solve the main issues relating to the recognition of a legal status for the Roma community living in Italy
- The facilitation of access to legal clinics and/or mobile teams through call for tenders with national funds (UNAR – 2017) and publication and dissemination of the statelessness related materials.
- Training police on anti-discrimination (by the Observatory for Security against Acts of Discrimination (OSCAD))
- An awareness raising and training for municipal social workers on the legal status of Roma and their access to services
- Local authorities (municipalities) – power to initiate registration of undocumented people (similar practice in Georgia – registration upon official witnesses' statements before the local authorities)
- Increased capacity building of NGOs with specific background on solving ID problems
- Awareness raising – publications, campaigns; UNAR 2017 call for tenders focused on awareness and training for social workers of municipalities on Roma legal status and access to services
- Pro bono activities (PILnet) in the case of solving individual cases
- Relevant efforts and methodological approach to support educational paths for Roma Youth.

Montenegro

- Montenegro has developed a very good mechanism regarding the lack of Identity documents for Roma and Egyptian population and inter-sectoral cooperation between relevant institutions is strong which is crucial for solving complex issue as the lack of identity documents is.
- Relevant legislation and strategic framework has been adopted and harmonized with the EU standards.
- Envisaged sufficient period of time during which birth registration/citizenship could be provided free of charge
- Mobile biometric units for receipt of applications for solving lack of ID documents
- Co-operation with civil society – provision of free legal aid
- Co-operation between institutions and with international organisations and a Memorandum of Understanding between the UNHCR and the Ministry of Labour and Social Affairs of Montenegro
- Cooperation and cross-border co-operation agreement with Kosovo on mobile teams to help Roma getting ID documents (after identification of a specific target group of Roma)
- Examination of the reasons behind the lack of IDs and development of targeted measures to address the particular factors

- Awareness-raising campaigns, particularly in segregated areas
- Sharing the experience among the countries which have and had this problematic is very important.

Serbia

- In 2012, the Law on amendments to the Law on Non-Contentious Procedure was adopted. This represents a turning point in improving the situation in the field of subsequent birth registration in Serbia. The law enabled a great number of legally invisible persons, who could not subsequently register in the birth registries through an administrative procedure, to register on the basis of a court decision in a non-contentious procedure of determination of date and place of birth. Since then, the number of legally invisible persons and persons at risk of statelessness in Serbia has been reduced.
- Co-operation between institutions (Memorandum of Understanding between the Ministry of State Administration and Local Self-Government of the Republic of Serbia, the Ombudsman and UNHCR) and between public authorities and civil society (Praxis). The NGO Praxis in Belgrade is a member of the European Network on Statelessness. Since its establishment in 2004, in addition to other activities directed at protection of human rights, Praxis has also been providing free legal aid to persons who are not registered in birth registry books (i.e. legally invisible persons) and persons at risk of statelessness.
- In the case of discrimination by public officials – delayed registry (Article 23(3): “Exceptionally, registration may be deferred in order to verify or ascertain the missing data to be entered in the register”)
- Concentrating statelessness - measures to the areas of Eastern Serbia, Belgrade and Vojvodina
- Training of public officials
- Free legal assistance
- Support by mobile teams
- Media and awareness-raising campaigns to explain to the Roma how to register in birth registry books
- Allowing registration of adults with a temporary address For Roma who lack a permanent residence address or property. This registering can happen through using the address of the Roma Social Welfare Centres.
- Allowing registration of a child to any of the parents (including the father) who is in possession of an ID
- Allowing incomplete registration if data is missing and later correct errors - child is registered automatically upon birth with a Serbian citizenship, even if both parents are unknown (Law on Registries, Articles 26 and 31)
- Amendment to the Law on extra-judicial proceedings,⁷¹ adopted in August 2012, which stipulates the Court procedure for determining the time and place of birth for persons who are unable to enrol in the registry books and administrative proceedings

North Macedonia

- Inter-ministerial co-operation: between the Ministry of Labour and Social Policy and the Ministry of Health

⁷¹ http://www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/76-15.%20lat.pdf.

- Awareness raising among stakeholders: information on the number of stateless people collected from NGOs, social centres, and local employment offices (Procedure: Roma are expected to make an official request for ID before being able to access relevant services)
- Training of police officers
- Directing Roma to civil services
- Filling in questionnaire to identify the reasons for the lack of ID
- Collecting biometrical data
- Targeted support to Roma who register with the system that that they currently lack ID
- Mobile teams support the registration of Roma

Ukraine

- Political commitment to prioritise Roma issues and implement the National Action Plan for the Strategy of Integration of the Roma national minority into the Ukrainian Society national Action for Roma;
- Setting-up of an Inter-ministerial Working Group for the Implementation of the Strategy of Integration of the Roma national minority into the Ukrainian Society in October 2016 and the appointment of a Roma woman as Deputy-Chair of this Inter-ministerial Working Group;
- Programmes promoting the social inclusion of Roma” in some municipalities, notably Zakarpattia and Odessa, where a significant number of Roma live.

Appendix 1: *Programme of the CAHROM thematic visit in Albania*



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Appendix 2: *European and international standards and reference texts*

[United Nations Children's Fund, Every Child's Birth Right: Inequities and trends in birth registration, UNICEF, New York, 2013](#)

[UN Report: Roma and Egyptians in Albania: a socio-demographic and economic profile based on the 2011 census by Patrick Simon, Emira Galanxhi, Olgeta Dhono](#)

Appendix 3: *Legislative policy framework and practices*



Appendix 3 -
Legislative policy fra